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Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Let us pray:

Eternal Spirit, You see our thoughts from a distance. You look not merely on our exteriors but also at our interiors. You see our desire to please You and to honor You with our lives. You know our remorse for neglected duties, missed opportunities, and selfish pursuits.

You are aware that we need strength for today and hope for tomorrow.

Today, meet the needs of our lawmakers as they confront the challenges of our time. Give them faith to trust that Your sovereign providence will prevail in the unfolding events of our world. Remind them that they are never alone, for You will never forsake them.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. McCONNELL. Mr. President, this morning we have set aside some debate

time in executive session for the consideration of Renee Bumb to be U.S. district judge for New Jersey. Following those statements, we will vote at around 10:20 a.m. on the confirmation of that nomination.

Immediately after the vote, we will resume debate on the motion to proceed to the Marriage Protection Amendment. We reserved blocks of time throughout the session for Members to come to the Senate to give their remarks on the marriage amendment.

The Senate will recess, as usual on Tuesdays, from 12:30 to 2:15 for our weekly policy luncheons.

I remind our colleagues, I filed a cloture motion on the motion to proceed to the Marriage Protection Amendment. That vote will occur on Wednesday. Later today, we will alert all Members as to the precise timing of that cloture vote on the marriage amendment which, as I indicated, will occur Wednesday.

EXECUTIVE SESSION

NOMINATION OF RENEE MARIE BUMB TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for consideration of Executive Calendar No. 626, which the clerk will report.

The bill clerk read the nomination of Renee Marie Bumb, of New Jersey, to be U.S. District Judge for the District of New Jersey.

The PRESIDENT pro tempore. Under the previous order, the time until 10:20 a.m. shall be equally divided between the two managers or their designees.

Mr. McCONNELL. Mr. President, before I suggest the absence of a quorum, will the time run during the quorum call?

The PRESIDENT pro tempore. It will be equally divided.

Mr. McCONNELL. I suggest the absence of a quorum.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Mr. President, I rise to express my pleasure and support for the confirmation of Ms. Renee Bumb to the U.S. District Court of New Jersey.

Ms. Bumb is one of four accomplished individuals from New Jersey who have been nominated to vacancies on the district court.

Just before we left for the Memorial Day recess, the Senate unanimously confirmed Judge Susan Wigenton for the district court. Judge Wigenton has been a Federal magistrate judge since 1997. She also worked at a law firm, served as a public defender in Asbury Park, NJ. She has been a first-rate magistrate judge. She will be an excellent district court judge. She served the public well. We are pleased to have her join the bench in New Jersey.

Now we discuss today's nominee, Renee Bumb. She is exceptionally well qualified and will be an excellent addition to the court. She is currently attorney in charge of the Camden—our southernmost city—U.S. Attorney's Office. She is a gifted prosecutor and has handled cases ranging from drug trafficking to white-collar crime.

For 6 years, Miss Bumb has supervised all of the attorneys in the Camden U.S. Attorney's Office. At the same time, she has tried cases herself, especially those dealing with public corruption.

Ms. Bumb is from south Jersey. We are pleased she will be sitting as a Federal judge in Camden. There have been

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



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openings there for some time. The people of south Jersey deserve judges who understand that area of the State and the unique communities therein. Ms. Bumb fits that bill.

When people look at tiny New Jersey on the map, they envision a small State but they are wrong. While we are relatively small geographically, we have the 10th largest population in the country. New Jersey is the most densely populated State in the country. While physical distance between north and south Jersey is not significant, there are differences between the two areas politically, economically, and culturally. The Federal Government needs to respect these distinctions.

Thus, we have Renee Bumb, who is a judge from South Jersey. She will dispense justice with the unique character her community brings—not having the large cities, and with the population density much less than the north. They also lack some of the services immediately available in the northern part of our State. Ms. Bumb will represent the Federal Government and represent the Judiciary extremely well.

At the same time, we have two other excellent nominees for vacancies on the U.S. District Court for New Jersey. One is Noel Hillman, another is Peter Sheridan. These nominees have been approved by the Judiciary Committee. They are ready to go. We should not delay the confirmation of these nominations past this week.

I offer thanks to Chairman SPECTER and Ranking Member LEAHY for moving these nominees so efficiently through the process. I am confident these four individuals will serve the people of New Jersey extremely well on the Federal bench. They will bring distinction to the court. We urge their quick confirmation in the Senate.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I rise today in support of the nomination of Renee Bumb to be a U.S. district judge for the District of New Jersey. I appreciate the opportunity to speak about this outstanding individual that the White House has selected to serve on the Federal bench.

I take a moment to share with our colleagues a few of her accomplishments. Ms. Bumb is a graduate of Ohio State University and the University of Chicago Graduate School of International Relations. She attended my own alma mater, Rutgers University School of Law in Newark, where she served as editor in chief of the law review and has been a loyal New Jersey ever since.

Ms. Bumb's reputation in the southern New Jersey legal community is both well known and exceptional. As assistant U.S. attorney, Ms. Bumb has been known for many efforts and is a staunch anticorruption prosecutor. She is best known for her prosecution of the former Camden City mayor. She has twice received the Director's

Award, the highest award given to an assistant U.S. attorney presented by the U.S. Attorney General. Ms. Bumb is currently the attorney in charge of the U.S. Attorney's Office in Camden, NJ.

The American Bar Association has rated Ms. Bumb as well qualified for the position to which she has been nominated. It is a view I share as well.

I would also like to talk about the package of four nominees for district judge of New Jersey that Ms. Bumb is a part of. It is a package that is balanced in every sense of the word, from geographic to gender perspectives, as well as to quality. I should note that Ms. Bumb is not the first nominee of that package to be confirmed by the Senate. The day before the Memorial Day district work period began, the Senate confirmed Susan Wigenton to be a district court judge. Judge Wigenton graduated from Norfolk State University and the Marshall-Wythe School of Law from the College of William and Mary. She has spent the last 8 years doing an exceptional job as a U.S. magistrate judge for the district of New Jersey, and she will do an exceptional job in the district court.

I look forward to working with Senator LAUTENBERG, the chair and ranking member of the Judiciary Committee, and the leadership in bringing the nominations of the other two nominees, Noel Hillman and Peter Sheridan, to the Senate floor for confirmation votes. This entire four-nominee package is one that every New Jersey can and should be proud of.

There truly is no higher calling than the calling of public service. That is why I am pleased to see people of this quality who are willing to serve our Nation in the administration of justice. The confirmation of a judge to a lifetime appointment is a vital responsibility given to this body by the Constitution and one I take very seriously. I join my colleague, Senator LAUTENBERG, in support of Ms. Bumb and her confirmation. I look forward to her continued service to our State and Nation. I am confident she will put our shared Rutgers education to good use.

I urge my colleagues to support the nomination of Renee M. Bumb to serve on the U.S. District Court for the District of New Jersey.

Mr. LEAHY. Mr. President, as we resume consideration of judicial nominations today, it is worth taking stock of the mileposts we have passed and those we are working toward. Chairman SPECTER has now chaired the Judiciary Committee for 17 months. I congratulate him on that. The committee has been extremely active, and we have achieved a good deal working together.

We reported a bill to provide compensation to asbestos victims and began its consideration in the Senate. Just recently, we joined together to introduce a new version of our legislation, to note the passing of our friend Judge Becker and to recommit ourselves to finishing this bipartisan task

to provide fair compensation to asbestos victims and reduce the litigation burden that asbestos cases have imposed on our civil justice system.

We worked together to report a comprehensive immigration reform bill and continued to work with Senators KENNEDY, MCCAIN, HAGEL, MARTINEZ, and others in a bipartisan coalition that culminated in Senate passage of S. 2611 late last month. We look forward to help from the President to enact that measure later this year.

We worked together to revive and reauthorize the expiring provisions of the USA PATRIOT Act. I supported the Judiciary Committee and Senate bill. When our bill was hijacked, I appreciated Chairman SPECTER's efforts to restore some balance and his efforts to work with those of us seeking improvements. Sadly, the final product insisted upon by the Bush-Cheney administration and House Republicans was not one I could support.

We are working together now in a bipartisan, bicameral partnership to reauthorize the expiring provisions of the Voting Rights Act. We need to complete hearings on our bill without further delay, and I hope that we can report our bipartisan bill by mid-June so that these important provisions, including those in section 203 providing voting access for language minorities, can be reauthorized this year.

We worked together to report privacy legislation to the Senate last November. Senate action on our bill is overdue. The recent theft of millions of veterans' personal information and the growing problem of identification theft remind us how important these issues are for so many Americans.

We have also worked together on competitiveness issues including the NOPEC legislation to clarify that our antitrust laws should be applied to the OPEC cartel, our broader bill on windfall oil company profits, and our bill to end the antitrust exemption for the insurance industry.

We have made progress on several issues, but our work is far from over. There are only 13 weeks left in this legislative session of the Senate and we still have much that needs to get done. The Republican-controlled House and Senate have yet to enact a Federal budget and are in violation of the statutory deadline of April 15. We have yet to pass a single appropriations bill, and we are required by law to pass 13. We have yet to reconcile and enact the emergency supplemental appropriations bill that has been pending for months and that includes funding for Iraq and Katrina victims and other matters. We have yet to reconcile and enact lobbying reform and ethics legislation. We have yet to deal with the skyrocketing cost of gasoline. We have yet to reconcile and enact a bipartisan and comprehensive immigration reform bill. We need to enact stronger privacy protection legislation, especially in the wake of the theft of information on more than 26 million veterans. We have yet to enact stem cell

research legislation. We need to reauthorize the Voting Rights Act. We have yet to enact patent reform legislation. And I hope that we will take up, pass and enact our asbestos compensation legislation and my measure to speed lifesaving medicine to those in desperate need.

I have urged that we exercise effective oversight of the executive branch, and I have supported Chairman SPENCER's efforts to get to the bottom of the NSA's unprecedented program of domestic spying on Americans without warrants. We need to make more progress on this important front and to restore accountability and check and balances in our Government.

One of the most important checks and balances to unprecedented overreaching by the Bush-Cheney executive branch is an independent judiciary. With respect to judicial nominations, we worked together in connection with the nominations of Chief Justice Roberts, whom I came to support, and Justice Alito, whom I did not. I have sought to expedite consideration of qualified, consensus nominees and urged the President to work with us to make selections that unite all Americans.

Today we will proceed to confirm another lifetime appointment to the Federal courts in New Jersey. With the support of the New Jersey Senators, we were able to confirm Judge Susan Davis Wigenton just before the last recess. Her nomination, as well as the nomination of Renee Marie Bumb that we are considering today, were reported favorably by the Judiciary Committee to the Senate more than a month ago.

Rather than proceed to those nominations promptly, the Republican leadership of the Senate delayed their consideration while proceeding over time with circuit court nominations. I was cooperative in proceeding to the confirmation of Judge Milan Smith to the Ninth Circuit. His confirmation demonstrated, again, that we can work together. I was pleased for his brother, the Senator from Oregon, and believe that he will be a fine judge.

Regrettably, the Senate Republican leadership chose not to move to any of the four district court nominations from New Jersey, or the two nominations to district courts in Michigan that their home State Democratic Senators have reached out to support. Instead, they forced debate on another controversial nomination, that of a White House insider selected for a lifetime position on the DC Circuit as a reward for his loyalty to President Bush. I did not support confirmation of Brett Kavanaugh. That was the fight that the Republican leader had promised the narrow special interest groups of the rightwing of his party.

The President and Senate Republican leadership continue to pick fights over judicial nominations rather than focus on filling vacancies. Judicial vacancies have now grown to more than 50 from

the lowest vacancy rate in decades. More than half these vacancies are without a nominee. The Congressional Research Service has recently released a study showing that this President has been the slowest in decades to nominate and the Republican Senate among the slowest to act. If they would concentrate on the needs of the courts, our Federal justice system and the needs of the American people, we would be much further along.

Still, we have passed a milestone. When the Senate votes today to confirm Renee Bumb as a district court judge, the Republican-controlled Senate will have this year confirmed 17 judicial nominations. That was the total number of judges confirmed in the 1996 congressional session, when Republicans controlled the Senate and stalled the nominations of President Clinton. In the 1996 session, however, Republicans would not confirm a single appellate court judge. All 17 confirmations were district court nominees. That is the only session I can remember in which the Senate has simply refused to consider a single appellate court nomination. That was part of their pocket filibuster strategy to stall and maintain vacancies so that a Republican President could pack the courts and tilt them decidedly to the right. In the important DC Circuit, the confirmation of Brett Kavanaugh was the culmination the Republicans' decade-long attempt to pack the DC Circuit that began with the stalling of Merrick Garland's nomination in 1996 and continued with the blocking of President Clinton's other well-qualified nominees, Elena Kagan and Allen Snyder.

Of course, with the confirmation today, we will tie that record of 17 confirmations for the year. It is June, and we have a few more weeks in which to make progress. There remain four more district court nominees on the calendar whose consideration could be scheduled for debate and vote but are being delayed—not by Democratic opposition—but by Republican control. There is also another circuit court nominee on the calendar who was reported with Democratic support from the Judiciary Committee and whose confirmation could be scheduled for debate and vote. Successful consideration of those five additional nominees will bring the Senate's total judicial confirmations to 22, thereby matching the total achieved all last year.

But the road ahead is likely to be rocky. In the runup to the Kavanaugh nomination debate, we saw that the Senate Republican leadership is apparently heeding the advice of *The Wall Street Journal* editorial page, which wrote, "[a] filibuster fight would be exactly the sort of political battle Republicans need to energize conservative voters after their recent months of despond." Rich Lowery, editor of the conservative *National Review*, listed a fight over judges as one of the ways President Bush could revive his polit-

ical fortunes, writing that he should, "[p]ush for the confirmation of his circuit judges that are pending. Talk about them by name. The G.O.P. wins judiciary fights."

Republican Senators are relishing picking fights over controversial judicial nominees. Senator THUNE has said, "A good fight on judges does nothing but energize our base . . . Right now our folks are feeling a little flat." Senator CORNYN has said, "I think this is excellent timing. From a political standpoint, when we talk about judges, we win." On May 8, 2006, *The New York Times* reported: "Republicans are itching for a good election-year fight. Now they are about to get one: a reprise of last year's Senate showdown over judges." *The Washington Post* reported on May 10: "Republicans had revived debate on Kavanaugh and another Bush appellate nominee, Terrence Boyle, in hopes of changing the pre-election subject from Iraq, high gasoline prices and bribery scandals."

We should not stand idly by as Republicans choose to use lifetime federal judgeships for partisan political advantage. In a May 11, 2006, editorial *The Tennessean* wrote:

"[T]he nation should look with complete dismay at the blatantly political angle on nominations being advocated by Senate Republicans now. . . . Republicans are girding for a fight on judicial nominees for no reason other than to be girding for a fight. They have admitted as much in public comments. . . . In other words, picking a public fight over judicial nominees is, in their minds, the right thing to do because it's the politically right thing to do. . . . Now, Republicans are advocating a brawl for openly political purposes. The appointment of judges deserves far more respect than to be an admitted election-year ploy. . . . It should be beneath the Senate to have such a serious matter subjected to nothing but a tool for political gain."

On May 3, 2006, *The New York Times* wrote in an editorial: "The Republicans have long used judicial nominations as a way of placating the far right of their party, and it appears that with President Bush sinking in the polls, they now want to offer up some new appeals court judges to their conservative base."

Consider the President's nomination of Judge Terrence Boyle to the Fourth Circuit. We have learned from recent news reports that, as a sitting U.S. district judge and while a circuit court nominee, Judge Boyle ruled on multiple cases involving corporations in which he held investments. In at least one instance, he is alleged to have bought General Electric stock while presiding over a lawsuit in which General Electric was accused of illegally denying disability benefits to a long-time employee. Two months later, he ruled in favor of GE and denied the employee's claim for long term and pension disability benefits. Whether it turns out that Judge Boyle broke Federal law or canons of judicial ethics, these types of conflicts of interest have no place on the Federal bench. Certainly, they should not be rewarded

with a promotion to the Fourth Circuit. Certainly, they should be investigated.

The President should heed the call of North Carolina Police Benevolent Association, the North Carolina Troopers' Association, the Police Benevolent Associations from South Carolina and Virginia, the National Association of Police Organizations, the Professional Fire Fighters and Paramedics of North Carolina, as well as the advice of Senator John Edwards, and withdraw his ill-advised nomination of Judge Terrence Boyle. Law enforcement from North Carolina and law enforcement from across the country oppose the nomination. Civil rights groups oppose the nomination. Those knowledgeable and respectful of judicial ethics oppose this nomination. This nomination has been pending on the calendar in the Republican-controlled Senate since June of last year when it was forced out of the Committee on a party-line vote. It should be withdrawn.

Also on the calendar is the nomination of William Myers to the Ninth Circuit. This is another administration insider and lobbyist whose record has made him extremely controversial. I opposed this nomination when it was considered by the Judiciary Committee in March 2005. He was a nominee who the so-called Gang of 14 expressly listed as someone for whom they made no commitment to vote for cloture, and with good reason. His anti-environmental record is reason enough to oppose his confirmation. His lack of independence is another. If anyone sought to proceed to this nomination, there would be a need to explore his connections with the lobbying scandals associated with the Interior Department and Jack Abramoff. This nomination should also be withdrawn.

A few months ago, the President withdrew the nomination of Judge James Payne to the Court of Appeals for the 10th Circuit after information became public about that nominee's rulings in a number of cases in which he appears, like Judge Boyle, to have had conflicts of interest. Those conflicts were pointed out not by the administration's screening process or by the ABA but by journalists.

Judge Payne joins a long list of nominations by this President that have been withdrawn. Among the more well known are Bernard Kerik to head the Department of Homeland Security and Harriet Miers to the Supreme Court. It was, as I recall, reporting in a national magazine that doomed the Kerik nomination. It was opposition within the President's own party that doomed the Miers nomination.

During the last few months, President Bush also withdrew the nominations of Judge Henry Saad to the Court of Appeals for the Sixth Circuit and Judge Daniel P. Ryan to the Eastern District of Michigan after his ABA rating was downgraded.

It is not as if we have not been victimized before by the White House's

poor vetting of important nominations. If the White House had its way, we would already have confirmed Claude Allen to the Fourth Circuit. He is the Bush administration insider who recently resigned his position as a top domestic policy adviser to the President. Ultimately, we learned why he resigned when he was arrested for fraudulent conduct over an extended period of time. Had we Democrats not objected to the White House attempt to shift a circuit judgeship from Maryland to Virginia, someone now the subject of a criminal prosecution for the equivalent of stealing from retail stores would be a sitting judge on the Fourth Circuit confirmed with a Republican rubberstamp.

Yet another controversial pending nomination is that of Norman Randy Smith to the Ninth Circuit. This nomination is another occasion on which this President is seeking to steal a circuit court seat from one State and reassign it to another one, one with Republican Senators. That is wrong. I support Senators FEINSTEIN and BOXER in their opposition to this tactic. I have suggested a way to resolve two difficult situations if the President were to renominate Mr. SMITH to fill the Idaho vacancy on the Ninth Circuit, instead of a vacancy for a California seat. Regrettably, the White House has not followed up on my suggestion.

A complicit Republican-controlled Senate remains all too eager to act as a rubberstamp for the Bush-Cheney administration. The nomination of Kavanaugh was one of the few to be downgraded by the ABA upon further review. Until the Republican-controlled Senate proceeded to confirm this White House insider, I cannot recall anyone being confirmed after such a development. Another first, and another problematic confirmation that ill serves the American people.

Another troubling nomination is that of William James Haynes to the Fourth Circuit, which has been pending in the Republican-controlled Senate without action for 3 years. Mr. Haynes is the general counsel at the Defense Department and was deeply involved developing the torture policies, detention and interrogation policies, military tribunals, and other controversial aspects of the manner in which this administration has proceeded unilaterally to make mistakes and exceed its legal authority. Concerns about the Haynes nomination may not be confined to Democratic Senators, according to recent press reports.

I trust that the Senate will not repeat the mistake it made before. It was only after Jay Bybee was confirmed to a lifetime appointment to the Ninth Circuit that we learned of his involvement with the infamous Bybee memo seeking to justify torture and degrading treatment. I had asked him what he had worked on while head of the Department of Justice's Office of Legal Counsel, but he had refused to respond.

This former Defense Department and Justice Department insider now sits on the Ninth Circuit for life.

Finally, there is the more recent nomination of Michael Wallace to a vacancy on the Fifth Circuit. Mr. Wallace received the first ABA rating of unanimously "not qualified" that I have seen for a circuit court nominee since President Reagan. Yet that is one of the controversial nominations we can expect the Republican Senate to target for action given their track record.

Working together we could do better. I made the point when in the 17 months I chaired the Judiciary Committee we proceeded to confirm 100 judicial nominees of President Bush. I urge the White House to work with us. I hope that the Republican-controlled Senate will stop rubberstamping this President's nominees and stop using controversial judicial nominations to score partisan political points. Our courts are too important. The rights and liberties of the American people are too important. The courts are the only check and balance left to protect the American people and provide some oversight of the actions of this President.

I suggest the absence of a quorum. The PRESIDING OFFICER (Mr. DEMINT). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The hour of 10:20 having arrived, the vote is to occur on the nomination.

Mr. SANTORUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. SANTORUM. I thank the Chair.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Renee Marie Bumb, of New Jersey, to be a United States District Judge for the District of New Jersey?

On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Tennessee (Mr. FRIST), the Senator from Montana (Mr. BURNS), the Senator from Idaho (Mr. CRAPO), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nebraska (Mr. HAGEL), the Senator from Utah (Mr. HATCH), and the Senator from Missouri (Mr. TALENT).

Further, if present and voting, the Senator from Tennessee (Mr. FRIST) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Maryland (Mr. SARBANES), and the Senator from New York (Mr. SCHUMER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 89, nays 0, as follows:

[Rollcall Vote No. 162 Ex.]

YEAS—89

| | | |
|-----------|------------|-------------|
| Akaka | Dole | McCain |
| Alexander | Dorgan | McConnell |
| Allard | Durbin | Menendez |
| Allen | Ensign | Mikulski |
| Baucus | Enzi | Murkowski |
| Bayh | Feingold | Murray |
| Bennett | Feinstein | Nelson (FL) |
| Biden | Graham | Nelson (NE) |
| Bond | Grassley | Obama |
| Boxer | Gregg | Pryor |
| Brownback | Harkin | Reed |
| Bunning | Hutchison | Reid |
| Burr | Inhofe | Roberts |
| Byrd | Inouye | Salazar |
| Cantwell | Isakson | Santorum |
| Carper | Jeffords | Sessions |
| Chafee | Johnson | Shelby |
| Chambliss | Kennedy | Smith |
| Clinton | Kerry | Snowe |
| Coburn | Kohl | Specter |
| Cochran | Kyl | Stabenow |
| Coleman | Landrieu | Stevens |
| Collins | Lautenberg | Sununu |
| Conrad | Leahy | Thomas |
| Cornyn | Levin | Thune |
| Craig | Lieberman | Vitter |
| Dayton | Lincoln | Voinovich |
| DeMint | Lott | Warner |
| DeWine | Lugar | Wyden |
| Dodd | Martinez | |

NOT VOTING—11

| | | |
|----------|-------------|----------|
| Bingaman | Frist | Sarbanes |
| Burns | Hagel | Schumer |
| Crapo | Hatch | Talent |
| Domenici | Rockefeller | |

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

The Senator from Georgia.

Mr. ISAKSON. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

EXPERIENCING MEMORIAL DAY CELEBRATIONS ON FOREIGN SOILS

Mr. ISAKSON. Mr. President, I would like to call everybody's attention to the special day that today is. Today is the 6th day of June. Sixty-two years ago today on the shores of France and Normandy, Omaha Beach, Sword Beach, American troops and allied forces invaded France, pushed back the German Army, pushed through the Battle of the Bulge, and ultimately into Germany, and today, you and I enjoy freedom and liberty in this country, as Europe enjoys its freedom, and as, in fact, the world enjoys its freedom because of what those brave men and women did.

This past week, I had a unique occasion to travel with the chairman of the Veterans' Affairs Committee, Senator CRAIG from Idaho, and with GEN Jack Nicholson, who is the chairman of the

American Battle Monuments Commission. We traveled through Europe and northern Africa paying Memorial Day tributes to the men and women buried on those foreign shores.

I have to tell my colleagues, it was a life-altering experience for me. I am a patriotic American. I love this country more than anything on the face of this Earth. I have teared up more than once at the funeral of a friend who died in the service of this country. But I have never seen the outpouring of love and respect for our country or for our servicemen than I saw in the Netherlands or in Belgium or outside of Paris or at Bellewood outside of Paris or in Tunisia at the American cemetery in northern Africa.

I think it is appropriate for us to memorialize today what those of us who traveled on this trip saw to hopefully inspire other Members of the Senate, and hopefully every American at one point in time in their life, to travel to these marvelous memorials. I have been in elected office for most of the last 30 years. I have done more Memorial Day ceremonies than one would want to count. They have all been beautiful, they have all been meaningful, but, quite frankly, they usually aren't very well attended because Americans more often than not take Memorial Day as a 3-day vacation or a 3-day weekend. But I would like to tell you what the people of Margraten in the Netherlands take Memorial Day as.

When we went to the American cemetery in the Netherlands and saw the over 6,000 graves of the American men and women who died in liberating the Netherlands, we were moved. We were more moved by the fact that every one of those graves is adopted by a citizen of the Netherlands who cares for that grave, leaves flowers at that grave, and attends the ceremonies on Memorial Day, the American Memorial Day, which we conduct. On that day in the Netherlands there were over 7,000 citizens—7,000 Dutch—who came to pay tribute to the men and women of the United States of America who died on their soil so they could be free. The royal Dutch Air Force did a missing man fly-over formation, and the senior men's choir of Holland sang "God Bless America." It was a moving scene unlike anything I have personally seen. It renewed, for me, the faith and pride I have in all that is good about the United States of America.

Following that visit, we went to Normandy. We saw the monument the French had erected to the Rangers who stormed the Normandy cliffs and moved in and rooted out the Germans. We went to Omaha Beach and saw firsthand where the American troops came across, where the Canadian troops came across, where the British troops came across. We saw where in one day 2,500 men of America died on the beaches of Normandy so that all of us today can live in freedom and in hope and in peace.

I commend Chairman CRAIG for making this delegation. We found out we

were the first delegation that anyone could remember to ever do what we did. Not only do I hope we are not the last, I hope it is an annual occasion where Members of the Senate go and pay their respects to the brave Americans who died in the great wars of Europe, World War I and World War II; for without them, we would not enjoy what we do today, nor would the world enjoy the peace and the freedom and the liberty that it treasures and it enjoys.

So on this day of June 6, 2006, 62 years after 2,500 Americans died and tens of thousands of Americans pursued the German Army in France, I know what I will do tonight when I say my prayers. I will say a special prayer for those folks I never knew but without whom I never could have lived the life that I have, and I will say thanks. I will repeat the pledge I made to myself on the cemetery of Normandy. I said: Before I die, I am going to see to it that my children and my grandchildren get to visit this scene and have this experience because only through the preservation of the memory of what those men fought and died for will we as Americans ever be able to continue to make the commitments we have around the world to preserve liberty, preserve democracy, and protect the people of the world's right to determine their own future and their own peace and their own liberty.

So, Mr. President, on this day, June 6, 2006, I thank God for the men and women of the U.S. military, for the leadership of the 20th century, and pray that all of us will have the courage they had to continue to preserve the liberty we all treasure and enjoy.

I yield the floor.

MARRIAGE PROTECTION AMENDMENT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S.J. Res. 1, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of S.J. Res. 1, proposing an amendment to the Constitution of the United States relating to marriage.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Colorado.

Mr. ALLARD. Mr. President, I ask unanimous consent that the time today from 6 to 6:30 be under the control of the majority and from 6:30 to 7 o'clock be under the control of the minority.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. We have no objection.

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

Mr. ALLARD. Mr. President, I ask that LARRY CRAIG be added as a cosponsor to S.J. Res. 1.

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

Mr. ALLARD. Mr. President, we are now talking about S.J. Res. 1, the Protection of Marriage Amendment. We

have an allocation of time that has been set out for the Republican side. Later on there will be an allocation, I understand, of the Democrats' time.

I will allocate myself 20 minutes. Would the Presiding Officer notify me when I have used 17 minutes of that?

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. ALLARD. Mr. President, respect for the democratic process compels this Congress to protect traditional marriage in the face of a coordinated effort to redefine marriage through the courts.

Marriage, the union between a man and a woman, has been the foundation of every civilization in human history. It is incorporated into the fabric of our culture and civic life. It is the platform on which children, families, and communities are nurtured.

Unfortunately, the U.S. Constitution is being amended to reflect a new definition of marriage, not by democratically elected Members of Congress but by unaccountable and unelected judges.

As a result, I introduced S.J. Res. 1, an amendment to the Constitution that simply defines marriage as the "union of a man and a woman," while leaving State legislatures the freedom to address the question of civil unions.

Democracy and representative government are at the core of this debate. In 2004 and 2005, voters in 14 States overwhelmingly passed constitutional amendments protecting marriage. Today, 19 States have constitutional amendments protecting marriage and another 26 have statutes designed to protect traditional marriage. The will of the people is clear.

Unfortunately, dissatisfied with the outcome of the democratic process, activists have intensified their campaign to circumvent the democratic process and redefine marriage through the courts. Currently nine States face lawsuits challenging traditional marriage laws. Among these lawsuits are challenges to State constitutional amendments passed by an overwhelming majority of voters.

Recent decisions by activist judges not only fail to respect the traditional definition of marriage, they also highlight a lack of respect for the democratic process. The courts are driving a redefinition of marriage contrary to democratic principles.

The process to amend the U.S. Constitution is the most democratic in the world, requiring two-thirds of Congress and three-fourths of the States to ratify. It is a process the American people can trust.

If we fail to define marriage, the courts will not hesitate to do it for us.

My amendment reflects my belief that the institution of marriage is too precious to surrender to the whims of a handful of unelected, activist judges.

The will of the people should prevail.

Marriage is the foundation of every civilization in human history. As I said before, the definition of marriage crosses all bounds of race, religion, cul-

ture, political party, ideology and ethnicity. Marriage is not a partisan issue. Marriage is embraced and intuitively understood to be a union between a man and a woman by Republicans, Democrats, and Independents alike.

As an expression of this cultural value, the definition of marriage is incorporated into the very fabric of civic policy. It is the root from which families and communities are grown. Marriage is the one bond on which all other bonds are built.

Marriage is not some controversial ideology being forced upon an unwilling populace by the government, it is in fact the opposite. Marriage is the ideal held by the people and the government has long reflected this. The broadly embraced union of a woman and a man is understood to be the ideal union from which people live and children best blossom and thrive.

As we have heard in hours of testimony, in eight hearings, in numerous Senate committees over the last several years, marriage is a pretty good thing. A good marriage facilitates a more stable community, allows kids to grow up with fewer difficulties, increases the lifespan and quality of life of those involved, reduces the likelihood of incidences of chemical abuse and violent crime, and contributes to the overall health of the family. It is no wonder so many single adults long to be married, to raise kids, and to have families.

Today there are numerous efforts to redefine marriage to be something that it isn't. When it comes to same-gender couples there is a problem of definition. Two women or two men simply do not meet the criteria for marriage as it has been defined for thousands of years. Marriage is, as it always has been, a union between a man and a woman.

I believe the Framers of the Constitution felt that this would never be an issue—and if they had it would have been included in the U.S. Constitution. Like the vast majority of Americans, it would have never occurred to me that the definition of marriage, or marriage itself, would be the source of controversy. Not too long ago it would have been wholly inconceivable that this definition—this institution that is marriage—would be challenged, redefined or attacked. But we are here today because it is.

As a result of this coordinated campaign to redefine marriage through the courts, we stand here today, compelled by respect for the democratic process, to publicly debate an amendment to the U.S. Constitution. Again, this amendment simply reads:

Marriage in the United States shall consist only of the union of a man and a woman.

Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

The first sentence is straightforward: It defines marriage as an institution

solely between one man and one woman—just as it has been defined for thousands of years in hundreds of cultures around the world.

The second sentence simply ensures that the people or their elected representatives, not judges, can decide whether to confer the legal incidents of marriage on people. Citizens remain free to act through their legislatures to bestow whatever benefits to same-sex couples that they choose. It is aimed squarely at the problem of judicial activism.

Just as important as what it does do, is what it does not do. I have said it time and time again and I say here again today for the record: The amendment does not seek to prohibit, in any way, the lawful, democratic creation of civil unions or domestic partnerships. It does not prohibit private employers from offering benefits to same-sex couples. It denies no existing rights.

What our amendment does is to define and protect traditional marriage at the highest level, the U.S. Constitution. Importantly, the consideration of this amendment in the Senate represents the discussion of marriage in America in a democratic body of elected officials. I am not willing to surrender this issue to the courts.

I also believe it is important to make clear that on the question of federalism and States' rights I stand where I always have. While an indisputable definition of marriage will be a part of our Constitution, all other questions will be left to the States.

Contrary to assertions of those who believe my amendment infringes on the rights of the States, my amendment actually protects States' rights. Forty-five States have spoken with laws or constitutional amendments designed to protect traditional marriage. Unfortunately, same-sex advocates have, through the courts, systematically and successfully trampled on laws democratically enacted in the States. If marriage is redefined for anybody, it is redefined for everybody. My amendment takes the issue out of the hands of a handful of activist judges and puts it squarely back in the hands of the people.

Now is the time for Congress to fulfill its responsibility and send a constitutional amendment to the States for ratification.

Marriage, the union between a man and a woman, has been the foundation of every civilization in human history. This debate is not about politics or discrimination, it is about marriage and democracy.

Unfortunately, the U.S. Constitution is being amended to reflect a new definition of marriage—not by democratically elected Members of Congress but by unaccountable and unelected judges. If we fail to define marriage, the courts will not hesitate to do it for us.

I, for one, believe that the institution of marriage and the principles of democracy are too precious to surrender to the whims of a handful of unelected, activist judges.

Mr. President, I have behind me a number of charts I would like to go over for Members of the Senate. This is what the amendment is all about:

Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the Constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

In this very simple-to-understand chart form I have laid out for Members of the Senate exactly what happens when it is sent to the States and what it does to the courts. The State and Federal courts, what can they impose? They cannot redefine marriage. The courts cannot go ahead and redefine civil unions or domestic partnerships. The courts cannot grant rights or benefits of marriage. But it doesn't affect in any way employee benefits offered by private businesses.

Then we go down and look at the legislatures. What can they do? They can't redefine marriage. But they can deal with the creation of civil unions or domestic partnerships—that is left up to the State legislatures, granting the rights or benefits of marriage. Again, that is left up to the State legislatures. Again, through the States, we don't mandate anything that affects private businesses.

The next chart I would like to show to my colleagues in the Senate is how America is weighing in on the issue of marriage. We have a map of the United States here that clearly outlines those States where amendments have passed—in the dark green. If we look at those results from within the States, the State that passed with the least majority was Oregon with 57 percent, and the largest majority—it looks like it was in Mississippi: 86 percent. But the average margin of where States have enacted the constitutional amendment is greater than 70 percent.

Then we see that marriage amendments are expected in 2006 in a number of States throughout the country. The percentage of the voters who support the idea of the definition of marriage is a large percentage, a large margin.

Now I would like to go to our next chart to outline what the States have done to protect traditional marriage through statutory and constitutional defense of marriage acts. The blue lines show how the States have acted on the definition of marriage as it was allowed to occur through the defense of marriage acts. Obviously, we all recall that in the Senate we passed the Defense of Marriage Act by a large percentage and it passed the House by a large percentage. And it also passed in many States with a large percentage, with 45 States ending up passing the Defense of Marriage Act. The problem with the Defense of Marriage Act is it will not hold up against State challenges. Those court cases that have been brought forward could have an adverse impact on what a large majority of State legislatures have said and

what a large majority of houses have said.

The red reflects what has happened in regard to a constitutional amendment. We have 19 States that have passed those constitutional amendments and a number of amendments are pending before the States.

Now let me look at the following chart, and this is the number of States in which marriage laws have been challenged in court. Between 1992 and 1994, we had 5 cases that were challenged in court, and as these cases have accumulated through the years, now, in 2006, we have 22 cases that have been challenged. So we have a significant threat from the courts. This is an important issue to the American people, it is an important issue to the Congress, and it is something that should be addressed.

I believe that the institution of marriage and the principles of democracy are simply too precious to surrender to the whims of a handful of unelected activist judges. I urge my colleagues to join me in supporting the Marriage Protection Amendment.

I now yield the floor.

The PRESIDING OFFICER. The Senator has used 15 minutes.

The Senator from Kansas.

Mr. BROWNBACK. I believe under a previous agreement I am recognized for a period up to 20 minutes; is that correct?

The PRESIDING OFFICER. There is no agreement. The majority controls the 45 minutes remaining until the hour of 12 o'clock. The Senator from Kansas is recognized.

Mr. BROWNBACK. I thank the Chair. I ask if you would let me know when I have used 15 minutes of that time.

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

Mr. BROWNBACK. I thank my colleague from Colorado, Senator ALLARD, for his carrying of this amendment. When the issue first surfaced a couple of years ago, Senator ALLARD was the first one to put forward a constitutional amendment on the issue of marriage, a very simple one to define the union of marriage as a man and a woman.

The issue has taken many twists and turns since that time. The institution itself has been weakened over a number of years, and this is an effort to help it, help strengthen that institution and to have the definition of this institution done by legislative bodies and not by courts.

This is a very simple amendment. It is hard for me to understand why anybody would oppose it when 45 of 50 States have defined marriage as the union of a man and a woman, and this simply says that if States want to define it differently, they have to go through the legislative process and not the courts, so that the Court can't force it. It must be done by a legislative body. And if some States decide to do that, then that is provided for in this amendment. So the five States that have done something different are

provided for in the amendment. Yet the basics of it say marriage is the union of a man and a woman, as it has been as an institution for thousands of years.

So I thank my friend from Colorado for carrying this. It is a difficult topic. I would never have dreamed in my life, in coming to the Senate, that this would be a difficult topic, one that would be debated. When I came into the Senate in 1996, this was not discussed at all in the campaigns. It was not discussed in the campaign in 1998. It has only been of a recent vintage that this has come forward. Yet it has come forward because of the importance of the topic.

I want to discuss two points. This issue is going to be defined by the courts or the legislative bodies, period. We seek to have it defined by legislative bodies. We think that is the appropriate thing when you are dealing with such a fundamental institution of society as marriage. It should be defined by the people and the legislative bodies and not the courts. The situation in Europe, as it evolved, went through the court process. Therefore, we seek for these changes, if they are to be made, to go through the legislative body. I believe that marriage is such a foundational institution it should be defined as the union of a man and woman, and I will cover that in my discussion.

No. 2, this is important on how we raise the next generation in the United States. That is why we have favored the institution of traditional marriage, the union of a man and a woman, because we know in all the social data in all societies at all times that the best place to raise children is in the union of a man and a woman and in that sacred institution is the best place to raise your next generation, with that bonding together for life and children raised in that setting.

That is something for which we have got social data, but also we know that in our hearts. We know, sitting here right now, that, yes, that is the best place. I know that. I know that in my own heart. Yet I want to take us through what has happened to this weakened institution of marriage, what has happened then to our next generation. Here I am using the Moynihan principle. Senator Moynihan, who was in this body, since deceased, had a basic principle that he looked at. One of the key things we should look at is how we raise the next generation. It is something that any legislative body should be most concerned about because it affects what you are going to do in the future. It affects what the country is going to be in the future. And so we should maximize and look with great intensity at how you are impacting that next generation. I have to say, with the weakening of the institution of marriage over the past 30 to 40 years, with this redefining of marriage, which would define marriage out of existence, which is what we have seen in other countries, you are going

to harm your next generations and succeeding generations that you raise.

I want to back that up. I am going to go through a series of charts to paint the picture of what has happened to marriage in America today and why we would encourage the institution of marriage as the union of a man and a woman.

This doesn't need explanation. You can see where we are. With a 4-percent rate of out-of-wedlock births in 1930, we are at about a third of the children in the United States today born to unmarried women.

That is not to say you cannot raise great children in this setting because you can. A number of women struggle heroically to raise children, and good children, in this setting, as they can do. As I will show in these charts, it becomes far more difficult, and that is why institutions such as this and across the States, across the country, favor traditional marriage because you get more adults per child involved in that child's life and they are bonded together. They are thick. The blood is thick. They care for each other and they work to raise this child as my wife and I are working together to raise our children. It is tough. It is tough raising children. You need more adults per child, and you need adults who are committed for life so that that child does not have to worry about what is going to happen tomorrow or what is going to happen in the future. They know there are two parents who love that child unconditionally and are committed to that child unconditionally and they are going to work for that child and that is why we favor the institution of marriage. Yet you can see we are getting fewer and fewer children raised in that type of situation.

Now, then I mentioned, well, OK, you can raise good children in a single-parent household. Yes, you can. But the situation becomes more difficult. Developmental problems are less common in two-parent families. Lower half of class academically, as you can see in the green, is not as high in two-parent families; developmental delays, 10 percent. You are looking at, again, almost double the situation, and you are looking at double the problems with emotional behavior problems, single-parent versus two-parent families. That doesn't mean that you don't have problems in two-parent families. You do. It is just your numbers go down. So when you are looking at this in a macrosituation, as a Government, you are saying we want more children in these two-parent households.

The next chart shows that nearly 80 percent of all children suffering long-term poverty come from broken or never married families. This is something I want to develop a little further as well. We have a Brookings scholar, Ron Haskin, who testified at a hearing I hosted about welfare reform and the need to encourage marriage for those who are receiving welfare. And he says this:

There are only two ways known to man and to God to reduce poverty. No. 1 is work and No. 2 is marriage.

Here's what I want to show is if people will get married and stay married the number of children suffering in long-term poverty goes down substantially, if you will do that. And I want to develop this a little bit further.

Children in poverty—this is in the year 2000. You can see, if a child has been a child of a first marriage, less than 12 percent in poverty. You can see, if a child is in a situation where the mom has never married, 67 percent of your children in poverty come in that situation. Again, that is not casting aspersions on anybody. It is simply saying these are the facts of what happened.

Now, it is a bit of a sidebar, but it points to the policy impact of harming marriage. In other words, if we take policies that are harmful to marriage, it hurts children and it hurts marriage. If we take this policy move of defining marriage out of existence, saying it can be any two or more people who care for each other, it will fundamentally hurt your institution of marriage by a policy move.

Now, I want to reflect a policy move we did in welfare. In welfare, basically, we said—it is a very busy chart—we said to people if you get married, we are going to cut your welfare support. If you get married, we are going to cut your welfare support. What this shows are the various welfare programs in the country and it is those when you are going from \$20,000 income per year, very low, to \$40,000, which is where you get if two people get married, and I will develop this further, you fall off into the abyss as far as support you get from child care development funds, women and infant children, Federal housing, food stamps, all these things, you fall off the cliff to the point that you have an effective tax rate, if you get married and your income gets to \$40,000 by being married, an 88-percent maximum tax rate for you getting married in the welfare system. Therefore, it is no wonder that the people who get married are much more in the upper income and much less in the lower income.

This is a stark chart that should scare us all. This is income levels to percentage unmarried. And you can see at the lower income level, you are up as high as 70 percent not married, not getting married. Our public policies say, if you get married, we are going to throw you off welfare, and so fewer people get married. And it has an impact.

I want to show this final one quite quickly. This is the effective tax rate, maximum highest tax rate of you getting married on welfare and it is 88 percent, the impact of divorce on income of families with children. Again, I want to hit this pretty fast. When families separate, it drives income down, hurts children generally, although not in all situations, but I am painting the macropicture.

Now, what has happened to our children in this society since, say, 1960. The number of children—I showed an earlier chart—about a third are born out of wedlock. In the 1940s, it was about 4 percent. You can look at 1960, the number of children, either born out of wedlock or in previous years the parents were divorced, in 1960, we are up to 16, 17 percent, and today you are looking at over half. In America today, about half of the children under age 18 will spend a significant portion of their life in a single-parent household. Again, you can raise good children in that setting, but the numbers start moving against you.

OK. What does that have to do with same-sex marriage. The issue is we are looking at the policy choice of why we define marriage as the union between a man and a woman or any sort of grouping. The experience in other countries has been, when you redefine marriage broadly and you broaden it and say it can be any type of relationship between two or more people, you get fewer marriages and you hurt your children. That has been the situation.

I will go to several other countries that have redefined marriage, defined marriage out of existence. In the Netherlands, since proposals for same-sex marriage began to be debated, the out-of-wedlock birthrate has soared. It was a fairly stable country in out-of-wedlock births and was at low rate.

We will show in the next chart the same-sex marriage union, and the discussion, said to society: It really does not matter. The marriage institution is not a sacred institution; it is just whatever we define it to be. That tradition is tradition. We are going to go a different way.

What happened to out-of-wedlock birthrates? You can see the situation in the Netherlands, which is particularly important because it was one of the lowest out-of-wedlock birthrate countries in Europe for a number of years, shows that until 1980, below 5 percent of the population was born out of wedlock. When we get the court cases which we have in the United States today saying marriage should be redefined, we see the impact, as well as a Supreme Court case that rules against marriage being the union of a man and a woman. Then we get symbolic marriage registration, registered partnership, same-sex unions, and now we are up to 35 percent as seen in this skyrocketing chart.

One can say, that is the way it is, this number puts children in more disadvantaged situations, which is where our concerns should be, as to how you raise that next generation.

I will show another chart. We not only know this in the Netherlands but we know from Scandinavian countries, the Nordic countries that redefined marriage, experiences in Scandinavia and the Netherlands make it clear that same-sex marriage could widen the separation between marriage and parenthood here in the United States.

We know in some Nordic countries, you have counties now where 80 percent of the first-born children are born out of wedlock, and two-thirds of the second children are born out of wedlock. That has a significant impact, I argue, a devastating impact, on how that next generation is raised, given the difficulty of raising children in that one-parent union.

So if we redefine marriage, and define it downward, far less heterosexual marriages will be the broad policy impact of doing this. That has been the experience in other countries. You get more children raised in a sub-optimal atmosphere and you will have more difficulties with that next generation of children. This is important. This is critical.

I hear my colleagues complain, important issues? I remind my colleagues we spent 2 weeks before break on immigration, which is a critical topic, and we will take up the budget this next week, another a critical topic, yet I don't think one can look at an institutional question more profound, more important and active than what is taking place right now on the issue of marriage.

Marriage is a foundational institution. If we get more of it, we will have more stronger, healthier children, raised in better situations for the future of the country. If we get less of it, such as what this policy decision would do if we do not define marriage as a union of a man and a woman, we will have more problems on a trajectory we are already headed on. The institution of marriage has been weakened in the United States.

The institution of marriage has been weakened over the past 40 years. But the answer is not to kill it. The answer is to strengthen it. And it takes steps like the commonsense approach Senator ALLARD from Colorado is putting forward, defining marriage as a union between a man and a woman, saying only State legislatures, not the courts, can redefine it another way.

That should please everyone. Yet, I am afraid many of my colleagues on the other side of the aisle are going the opposite and claiming some sort of hyperbole about this being bigotry. It is not. It is people deeply concerned about the future of the country and the future of the next generation, concerned that they will say it is just politics. It is not. You have 45 of 50 States that have defined marriage as a union of a man and a woman and have spent significant resources to define and support the institution of marriage because of its importance to the society and to the Republic. This is a key, important debate.

I am delighted the leadership is calling this up. I hope my colleagues on the other side of the aisle will support it.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator has used 17 minutes.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I compliment the Senator from Kansas for his tremendous effort and work on this very important issue. I know he has held hours upon hours of committee hearings and meetings to investigate with social scientists the impact of marriage on American lives and how it impacts the family.

I, for one, greatly appreciate the Senator's effort and support. He truly has been a partner in this effort to protect marriage. I appreciate his hard work. I recognize that in a public way.

I ask unanimous consent to have printed in the RECORD an article published by the Heritage Foundation, written by Mr. Ed Meese, titled "Marriage Amendment Protects Federalism," and a Statement of Administration Policy on the Senate Joint Resolution on the Marriage Protection Amendment, and a letter I have received from Mitt Romney, Governor of the Commonwealth of Massachusetts, in which he made a couple of statements that I will share with my colleagues.

First, he states in this letter:

Americans are tolerant, generous, and kind people. We all oppose bigotry and disparagement, and we all wish to avoid hurtful disregard of the feelings of others. But the debate over same-sex marriage is not a debate over tolerance. It is a debate about the purpose of the institution of marriage.

It goes further to talk of his experiences as Governor for the State of Massachusetts. He says:

... We are beginning to see the effects of the new legal logic in Massachusetts just two years into our state's social experiment. For instance, our birth certificate is being challenged: Same sex couples want the terms "Mother" and "Father" replaced with "Parent A" and "Parent B."

If the Senate will allow me to put this in context, I think the significance of his message is that marriage is being minimized. When we minimize marriage, we minimize its significance to society. As a result of that, our children will suffer.

I thank the President for his support. I also thank Governor Mitt Romney for his support.

I ask unanimous consent these be printed in the RECORD.

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

MARRIAGE AMENDMENT PROTECTS
FEDERALISM

(By Edwin Meese III)

July 12, 2004.—In our system of law, the powers of government are divided between the federal and state governments. The framers rightly left marriage policy, as so many other things, with the states.

Yet the fundamental definition of marriage is no mere policy issue. We're talking about the very integrity and meaning of one of the primary elements of civil society.

Nor is this a matter for state-by-state experimentation. Society isn't harmed when high-tax states live side by side with low-tax states. The market adjusts to the inconsistency. Not so with marriage. A highly integrated society such as ours—with questions of property ownership, tax and economic li-

ability, inheritance, and child custody crossing state lines—requires a uniform definition of marriage.

In a free society, certain fundamental questions must be addressed and settled for the good of that society. States can't impair the obligation of contracts, or coin their own money, or experiment with forms of non-republican government. We learned the hard way that the nation could not endure half slave and half free.

If marriage is a fundamental social institution, then it's fundamental for all of society. As such, it is not only reasonable but obligatory that it be preferred and defended in the law and, if necessary, protected in the U.S. Constitution.

This doesn't mean that marriage must be completely nationalized or should become the regulatory responsibility of the federal government. Policy decisions concerning questions such as degrees of consanguinity, the age of consent, and the rules of divorce should remain with the states.

The wisdom of extending certain benefits that stop well short of marriage—that don't undermine the distinctive status of marriage—are policy questions that should be the responsibility of state legislatures.

But we must protect the integrity of the institution as such by defining the societal boundaries and determining the limits beyond which no part of society can go.

A constitutional amendment that defines marriage would protect the states' capacity to regulate marriage by sustaining it as an institution. In order to guard the states' liberty to determine marriage policy in accord with the principles of federalism, society as a whole must prevent the institution itself from being redefined out of existence or abolished altogether.

STATEMENT OF ADMINISTRATION POLICY

S.J. RES. 1—MARRIAGE PROTECTION AMENDMENT
(Senator Allard (R) Colorado and 31
cosponsors)

The Administration strongly supports Senate passage of the Marriage Protection Amendment. Recent court decisions remind us that when activist judges insist on redefining the fundamental institution of marriage for their States or potentially for the entire country, the only alternative left to make the people's voice heard is an amendment to the Constitution. Without a constitutional amendment, judges and local officials could continue to attempt to redefine marriage. The Administration believes that the future of marriage in America should be decided through the democratic constitutional amendment process, rather than by the court orders of a few. The Administration urges both houses to pass the Marriage Protection Amendment and submit it to the States for ratification.

THE COMMONWEALTH OF MASSACHUSETTS,
EXECUTIVE DEPARTMENT,
STATE HOUSE,

Boston, MA, June 2, 2006.

Senator WAYNE ALLARD,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR: Next week, you will vote on a proposed amendment to the United States Constitution protecting the institution of marriage. As Governor of the state most directly affected by this amendment, I hope my perspectives will encourage you to vote "yes."

Americans are tolerant, generous, and kind people. We all oppose bigotry and disparagement, and we all wish to avoid hurtful disregard of the feelings of others. But the debate over same sex marriage is not a debate over tolerance. It is a debate about the purpose of the institution of marriage.

Attaching the word marriage to the association of same-sex individuals mistakenly presumes that marriage is principally a matter of adult benefits and adult rights. In fact, marriage is principally about the nurturing and development of children. And the successful development of children is critical to the preservation and success of our nation.

Our society, like all known civilizations in recorded history, has favored the union of a man and a woman with the special designation and benefits of marriage. In this respect, it has elevated the relationship of a legally bound man and woman over other relationships. This recognizes that the ideal setting for nurturing and developing children is a home where there is a mother and a father.

In order to protect the institution of marriage, we must prevent it from being redefined by judges like those here in Massachusetts who think that marriage is an "evolving paradigm," and that the traditional definition is "rooted in persistent prejudices" and amounts to "invidious discrimination."

Although the full impact of same-sex marriage may not be measured for decades or generations, we are beginning to see the effects of the new legal logic in Massachusetts just two years into our state's social experiment. For instance, our birth certificate is being challenged: same-sex couples want the terms "Mother" and "Father" replaced with "Parent A" and "Parent B."

In our schools, children are being instructed that there is no difference between same-sex marriage and traditional marriage. Recently, parents of a second grader in one public school complained when they were not notified that their son's teacher would read a fairy tale about same-sex marriage to the class. In the story, a prince chooses to marry another prince, instead of a princess. The parents asked for the opportunity to opt their child out of hearing such stories. In response, the school superintendent insisted on "teaching children about the world they live in, and in Massachusetts same sex marriage is legal." Once a society establishes that it is legally indifferent between traditional marriage and same-sex marriage, how can one preserve any practice which favors the union of a man and a woman?

Some argue that our principles of federalism and local control require us to leave the issue of same sex marriage to the states—which means, as a practical matter, to state courts. Such an argument denies the realities of modern life and would create a chaotic patchwork of inconsistent laws throughout the country. Marriage is not just an activity or practice which is confined to the border of anyone state. It is a status that is carried from state to state. Because of this, and because Americans conduct their financial and legal lives in a united country bound by interstate institutions, a national definition of marriage is necessary.

Your vote on this amendment should not be guided by a concern for adult rights. This matter goes to the development and well-being of children. I hope that you will make your vote heard on their behalf.

Best regards,

MITT ROMNEY,
Governor.

Mr. ALLARD. I yield to the Senator from Pennsylvania, who has been a strong leader and who has put in a large amount of effort in trying to protect the institution of marriage.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank and congratulate the Senator from Colorado for his terrific work on this issue, as well as the Senator from

Kansas, Mr. BROWNBACK, for his great work in the committee in moving this constitutional amendment forward.

This is a very difficult debate for a lot of people. It is very hard, sort of sad in some respects, that we are here talking about the issue of marriage, that talking about marriage is somehow a difficult debate. But it is for a lot of people. I know in many meetings of our colleagues when the issue of marriage comes up, heads drop. It is an issue that people feel uncomfortable talking about, something that maybe in some respects they feel like, Why is this even an issue?

That is a good question. Why is it an issue? I will talk about that in a minute.

There is a foundational question I would like to talk about that up until a couple of days ago I was not planning to talk about, which is, Why are we doing this now? This is the big buzz in the media. Oh, this is being brought up for political purposes; and this is all about politics and has nothing to do with the substance of the matter, and the media—which loves to pawn off issues and give spin to issues—has adopted this approach.

As Senator ALLARD would affirm, we have been considering now for several months what the best timing would be to bring this legislation up. We had a very forceful voice being heard from the American public. In fact, there is a chart of all the States that approved constitutional amendments in the last election of 2004. We are now up to 19 States in the country that have spoken; the people have spoken in those States.

There was a lot of momentum coming out of the 2004 election, so when we reconvened in 2005 we thought maybe this was a good time to bring it up, now that we have just had an election. We thought, in looking at this, it would be better if we had more court activity between the election and when we bring this amendment up. That, really, the issue is, as we have heard repeatedly in the Senate, we are trying to bring about a decision on marriage in this country through a democratic process.

I can't think of anything more democratic involving more people than a constitutional amendment. It takes two-thirds of this House, two-thirds of the other House and three-quarters of the States; 38 States have to ratify this amendment. Talk about a public debate where there is huge public input across America. The constitutional amendment is the way to do it. It is the most democratic way of making a decision on anything in this country.

We thought it would be a good juxtaposition to see further court erosion, further decisions made by courts to erode the public's will on the issue of marriage. I say the "public's will" only because we have 19 States and many others that have said what there really is with respect to marriage. So we are debating, almost month to month, and

we have had conversations, Is this the right time?

We had a Nebraska decision which has been talked about where a Federal court overturned the State constitutional amendment in the State of Nebraska. There was a case in Washington State. Washington State is an interesting State because, unlike Massachusetts, there is no residency requirement for marriage. Any couple from anywhere in the country can go to Washington and get married if the Supreme Court of Washington were to overturn their statute. Washington so far has not issued their opinion. They have had the case for 15 months and for some reason or another they have not decided to decide. We were waiting, trying to see if this was an appropriate time.

Last year we decided that we were not going to wait around for courts and we set this date for the first of June. That is why we are here today—not for any political reason. If it was purely politics, we would be debating this in September. We are debating it in June because we thought we would have 3 or 4 days as opposed to being compressed to 1 day in September. So we are here to give this the proper attention this vitally important issue deserves.

The other question that I did want to talk about is, How did we get here, not why are we doing it now, but how did this issue come about? There were a couple of States that were playing around with this issue for a while—Vermont and Hawaii. But the issue really got jump-started with the court decision—not surprisingly, a big court decision—the court decision that occurred in Washington with the United States Supreme Court is the *Lawrence v. Texas* case.

Lawrence v. Texas opened the floodgates for a variety of different litigation going across this country using, now, a constitutional right established by the United States Supreme Court in *Lawrence*. It was a seminal decision, there is no question about it.

We have a classic example of the U.S. Court forcing its will on establishing a right and then giving other courts the right or the ability to then project its power on to the people, to make decisions and force decisions, force legislation, as in the case of Massachusetts, onto the people.

I want to talk about that decision because I think it is important, but I want to talk about the decision before that. Just a few years ago, 15 years before *Lawrence v. Texas* was decided, a similar case was decided, *Bowers v. Hardwick*. I want to take a look at Justice White who wrote for the majority in *Bowers*, saying sodomy laws were constitutional, that moral laws passed by the States dealing with sexuality were, in fact, constitutional. There was no constitutional right that barred States and the public from regulating in this area. He said:

The right pressed upon us here [this is what the litigants in the *Bowers* case were

arguing] has no similar support in the text of the Constitution, it does not qualify for recognition under the prevailing principles for construing the 14th amendment. Its limits are also difficult to discern . . .

This limit of consensual sexual activity being a constitutional right which was made by the litigants, saying we have the right as individual adults under the Constitution to any kind of sexual behavior that we desire and the State cannot limit us.

He said:

Its limits were difficult to discern . . . And if respondent's submission is limited to the voluntary sexual conduct between consenting adults, it would be difficult, except by fiat, to limit the claimed right to homosexual conduct while leaving exposed to prosecution adultery, incest, and other sexual crimes even though they are committed in the home. We are unwilling start down that road.

What the Court said here was that if you open up the standard, the legal standard, if you change it for a constitutionally protected activity from that activity within marriage to that activity between consenting adults—and that was the decision here, change the standard from a Constitution that protects the marital union from State intrusion to consenting adults with respect to homosexual activity—in this case, the Court said: No, we can't go there. Because only by fiat could we then limit other activity beyond that.

Let's fast forward to shortly before the *Lawrence v. Texas* decision.

If . . . you have the right to consensual sex within your home, then you have the right to bigamy, you have the right to polygamy, you have the right to incest, you have the right to adultery. You have the right to do anything.

That comment has been reprinted probably 100,000 times in the last few years as an outrageous comment made by a U.S. Senator. It was the same comment that was made by Justice White in the majority opinion.

Let's fast forward a few months after that, Justice Scalia in the dissenting opinion in the *Lawrence v. Texas* case:

State laws against bigamy, same-sex marriage, adult incest, prostitution, masturbation, adultery, fornication, bestiality, and obscenity are likewise sustainable only in light of *Bowers'* validation of laws based on moral choices. Every single one of these laws is called into question by today's decision; the Court makes no effort to cabin the scope of its decision to exclude them from its holding.

What he is saying is that now that road which Justice White and the Court back in 1986 refused to go down, this Court in *Lawrence v. Texas* had headed us down that road.

Justice Scalia went on to say:

Today's opinion dismantles the structure of constitutional law that has permitted a distinction to be made between heterosexual and homosexual unions, insofar as formal recognition in marriage is concerned. If moral disapprobation of homosexual conduct is "no legitimate state interest" for purposes of proscribing that conduct; and if, as the Court coos (casting aside all pretense of neutrality), "[w]hen sexuality finds overt expression in intimate conduct with another

person, the conduct can be but one element in a personal bond that is more enduring," what justification could there possibly be for denying the benefits of marriage to homosexual couples exercising "[t]he liberty protected by the Constitution." Surely not the encouragement of procreation, since the sterile and the elderly are allowed to marry. The case "does not involve" the issue of homosexual marriage only if one—

And they are quoting the majority opinion again because the majority opinion said this doesn't deal with marriage, Scalia says this case does not involve the issue of homosexual marriage—

entertains the belief that principle and logic have nothing to do with the decisions of this Court.

The fact is, principle and logic have everything to do with judicial decisions. That is the problem with them. That is why they are different from legislative decisions. You see, when a court makes a judicial decision, they do so based on a judicial foundation that has a logical and rational basis to it and logical consequences. The logical consequence to the *Lawrence v. Texas* case is the next case, not a Supreme Court case before the U.S. Supreme Court but before involving Massachusetts.

What Massachusetts did was the logical thing from *Lawrence v. Texas*. In fact, they cite *Lawrence v. Texas* 5 times in the main opinion and 11 times in the combined majority opinions. It is the basis upon which they build their decision. Because unlike the majority opinion in *Lawrence v. Texas* which says this has nothing to do with marriage, it had everything to do with marriage.

The interesting thing about the *Lawrence v. Texas* decision—and this goes even more to judicial activism—they could have decided the *Lawrence v. Texas* decision for the plaintiffs in that decision. They could have found that statute unconstitutional. And in fact, had they done so—and in fact, they did in part of their opinion; they found it unconstitutional under equal protection grounds—had they limited their opinion to that, I would have agreed with the decision. I think the Texas statute probably was unconstitutional under equal protection grounds. And so when they started the decision out and they said: This is unconstitutional because of equal protection, I said that is right.

Here is what the court did and, unfortunately, what courts increasingly do. While we are here, we are going to establish a new constitutional right. While we are here, since we have the opportunity, since this case is before us, we are going to be activist jurists, and we are going to create a whole new body of law that will have huge ripples throughout society. So they did. They didn't have to, but they did. We are now debating this amendment because of it. They have this ripple effect which we are seeing throughout courts throughout the country, Federal as well as State.

Here in the Goodrich decision, it says:

It is clear from the quote below that the Goodrich decision was considered the "logical next step."

Our concern is with the Massachusetts Constitution as a charter of governance for every person properly within its reach. "Our obligation is to define the liberty of all, not a mandate of our own moral code."

There they were quoting *Lawrence v. Texas*. It went on to note that the *Lawrence* case "specifically affirmed that the core concept of common human dignity protected by the Fourteenth Amendment to the United States Constitution precludes government intrusion into the deeply personal realms of consensual adult expressions of intimacy and one's choice of an intimate partner. The Court also reaffirmed the central role that decisions whether to marry or have children bear in shaping one's identity."

The "logical next step," so the Goodrich decision is very much in conformity with the *Lawrence v. Texas* decision. That is why we are here. We are here because of judicial activism.

Our plea to the Members of the Senate is to allow the people to make the decision with respect to this foundational institution of our country—the traditional family, marriage—that courts who just happen to be deciding a case that didn't need them to decide it this way or use this logic or rationale, that courts just can't decide that they want to involve themselves into legislative affairs and send shock waves throughout our culture without the public having a right to say something, without the public having a right to put their stamp of approval on what is moral and just.

Some have said that the States can handle this. Some have said this is a federalist issue; We should not have Federal legislation on this; This is usurping States rights.

I don't know what involves the States more than having every State legislature in the country debate this issue. That is not usurping States rights; that is placing in the hands of the States the decision as to whether to move forward. Thirty-eight of the fifty States have to affirm this constitutional amendment. This is not an easy thing to do. That is why we don't have very many amendments to the Constitution. But it is a purely democratic process, just like the debate in the Senate. I think we should give the States, the people, the right to make this decision before a group of unelected judges, following the lead of the U.S. Supreme Court, do it for us.

First and foremost, this constitutional amendment is about democracy. It is about the people expressing their will on potentially the greatest moral issue of our time, and that is the integrity of the traditional family. That is issue No. 1.

Issue No. 2 is an important one, also. I heard the Senator from Kansas talk about this eloquently, so I won't spend

a lot of time. He did as good a job as any on the issue. That is the impact of the deconstruction of marriage on society. I heard the Senator from Kansas say that marriage is already in trouble in America. There is certainly little to argue that that is not true. It is true, marriage is in trouble. But I agree with him by saying just because something is in trouble doesn't mean you need to get rid of it altogether. Without question, once you change marriage from an institution whose societal purpose is focused on having children, being an institution that is the best place to rear future generations of society, once you change marriage from being principally about children, although not exclusively, certainly, but principally about children, to exclusively about adults, then you change marriage forever.

We did that in part 30-plus years ago with no-fault divorce laws. When they came into place, they said children will be helped by this. There will be fewer unhappy homes. I don't think there is a whole lot of evidence out there that would suggest children have been helped by the rapid increase in divorce. I know the Senator from Kansas had some charts up of how children in two-parent families don't end up in poverty as much, do better in school. I don't know of a social indicator out there that doesn't suggest that being in a married home is not more beneficial for children. That is certainly not to say that children raised in single-parent homes can't and don't do well. Most do. But the point is, society should be advocating for what is best for children and should set a standard for what is best.

We know what is best. We know it intrinsically, but we have supporting evidence as to what is best for children—less substance abuse, less abuse or neglect, less criminal activity, less early sexual activity, fewer out-of-wedlock births, fewer behavioral problems. It goes on and on. We know marriage is inherently good for children.

We also know that when we destroy marriage, when we deconstruct marriage, bad things happen. We saw that with no-fault divorce. More people got divorced. We changed the definition of marriage, and we say marriage is no longer about children, no longer about the next generation. Marriage is simply the affirmation of affection of two adults. Or, as Justices Scalia and White suggested, why limit it there. Why not, as we see in cases now being filed all over the country, why not three adults, four adults, five adults? What is the difference from the standpoint of a rationale? If marriage is not about one man and one woman for the purpose of a relationship of which to have children and continue society, if it is about two women and two men or two women and three men, why not whatever arrangement? If gender does not matter anymore, why does number matter? What is the significance? What is the logical argument to draw the

line here? As Justice White said, it would be by fiat to draw the line.

So we have a situation where without question, marriage would be undermined by this deconstruction. In fact, we see it. I have an article by Stanley Kurtz on what is going on in Europe, in countries that have, in fact, changed the definition of marriage. Those countries are now seeing dramatic declines in the number of marriages, not increases in the numbers of same-sex marriages but declines in the number of heterosexual marriages and dramatic and steady increases in the number of children being born out of wedlock.

I ask unanimous consent for 2 additional minutes.

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

Mr. SANTORUM. Mr. President, the final point I want to make—and I will try to come back to the floor when I have more time—is regarding the impact of this movement in the country by the courts on religious freedom. There was an article written, which was on the front cover of the *Weekly Standard*, called “Banned in Boston,” where Maggie Gallagher talks about Catholic Charities in Boston having to get out of the adoption business because they will not consent, under their Catholic orthodox faith, to place children into same-sex couple homes. It is against the Catholic faith to do so. There is a very clear message from Rome that this is not proper behavior. They were refused their license, and now one of the longest standing adoption agencies in Massachusetts no longer places children for adoption. Why? Because all around faith, all around churches and parachurch organizations, and missionary organizations is, whether we like it or not, the Government.

When the Government comes down with things that are contrary to that faith group there will be friction.

In fact, Mark Stern, who is a lawyer for the American Jewish Committee, is quoted as saying:

It is going to be a train wreck, a very dangerous train wreck.

So not only will this new right that the court has established in the follow-on—the right of same-sex marriage—going to cause problems with democracy and problems with marriage, it is going to create huge problems for our faith-based organizations. It is something that we need to address. Thank you.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. 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. REID. 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. REID. Mr. President, I just returned from my State of Nevada. For example, I did an event that received a lot of attention dealing with gas prices. Gas prices are so significant. Nevada has the third highest gas prices in all the country. Unfortunately, we have been in second place on occasion. It is not unusual to drive by a service station in Nevada and see the three different prices and the bottom one is \$3.40. The average price last week was \$3.19 a gallon.

What are we doing on the Senate floor today? No matter how a person feels about the marriage amendment, everyone knows it is not going to pass. It is not going to come close to passing. We voted on this a short time ago and got 48 votes. It takes 67 votes for a constitutional amendment to begin the process. This is not what the American people want to talk about. All you have to do is listen to the conservative talk shows, the liberal talk shows, read the newspapers, the liberal columnists, the conservative columnists. With rare exception, they say we are wasting the taxpayers' time doing this.

We have a war in Iraq going on. Are we having a discussion on the war in Iraq, where yesterday 80 Iraqis were killed, 7 having their heads cut off and put in a marketplace in baskets? Are we talking about that? We have soldiers valiantly fighting every day over there, Mr. President. We have been struggling to get a supplemental appropriations bill completed. They need our help.

In Nevada, like every other State in the Union, we have hundreds of thousands of people who have no health insurance. The State of Nevada leads the country in uninsured. The prescription drug bill was passed dealing with Medicare. It has been a nightmare for seniors and a gift for HMOs, pharmaceuticals, and insurance companies. When I was in college, I studied, among other things, political science. I don't know why, but it stuck in my mind.

A professor named Harmon Judd said: Let me explain this Federal system. What it means is, you have a central whole divided among self-governing parts. That was his definition. What are those self-governing parts? The 50 States; originally Thirteen Colonies, now 50 States. They are doing a pretty good job. Almost 50 States have either passed laws or constitutional amendments dealing with marriage. Over the top of that, we have the Defense of Marriage Act, which has been attacked numerous times by people trying to knock it out. It has been upheld by Federal courts three times, which basically says—not basically—it says a State does not have to give full faith and credit to another State's marriage laws. It is up to the State to determine what the marriage law is. That is what federalism is all about, as set forth, among other places, in the Defense of Marriage Act.

We really need to focus on stem cell research. There are hundreds of thousands of people crying for our help. They believe, as does the scientific community, that dread diseases can be moderated and cured—things such as Parkinson's disease, Alzheimer's, Lou Gehrig's, and diabetes. But we are not talking about that today.

Price gouging: Senator CANTWELL had 57 or 58 votes a short time ago on a price-gouging amendment. We could not break the logjam we had. We could not get enough support from the majority.

I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1735, the Energy Emergency Consumer Protection Act, and that the Senate proceed to its immediate consideration.

Before there is a response as to whether this would be granted, I suggest to those within the sound of my voice that this is a price-gouging amendment. I was told it was 57 votes in the Senate. I ask unanimous consent that request be granted.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. Reserving the right to object, and I will object, this issue is going to come up in front of the body on the overall energy situation. The Republican leadership is working on that, as well as on a stem cell compromise, as well as on the supplemental bill, which will be considered and brought forth in due order. This is not agreed to by the Republican leadership to come up; therefore, I do object.

Mr. REID. Reclaiming my time, in due consideration, Mr. President, everything around here with the majority is due consideration. We are going to do an energy bill after we finish gay marriage, estate tax, flag burning—things that are important to people but are way down the list of priorities of the people at home in Nevada. How about an energy bill or stem cells? We have been waiting more than a year to do something on stem cells—more than a year.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Through the Chair, I ask if the Senator from Nevada is aware that the Gallup organization, which does polling across America, did a poll of 1,000 Americans in April which asked them the following question: What do you think is the most important problem facing America today?

I would like to ask the Senator from Nevada if he knows where the issue of gay marriage came in on this poll of Americans about the most important issues facing America today?

Mr. REID. I really don't know.

Mr. DURBIN. I will alert the Senator from Nevada that it tied for 33rd in the list of priorities for America today.

I ask the Senator from Nevada, since the Republican majority controls the Senate, they set the agenda for things that we debate and vote on; do they not?

Mr. REID. That is right.

Mr. DURBIN. Am I correct that Senator FRIST and the Republican majority have decided that instead of the war in Iraq where we continue to lose servicemen, instead of the energy crisis which forced the price of gasoline to record-high levels causing hardship to families and individuals resulting in laying off workers across America, instead of dealing with health care where over 46 million Americans have no health insurance whatsoever and many have health insurance that is totally inadequate, instead of dealing with the cost of higher education where working families are struggling to get their kids through school and children who are accepted at the best schools and universities face a mountain of debt, instead of dealing with those issues which rank in the top 10, is it true that the Republican majority has decided we need to focus this entire week in the Senate on No. 33, issues involving gay marriage?

Mr. REID. I respond to my friend that I am stunned. I am stunned that it has taken weeks, weeks, weeks, and weeks to even be able to deal with money for our troops, the supplemental appropriations bill. I am in a quandary. I am so grateful that I represent the people of Nevada in the Senate. But I want to do things that I can talk to the folks at home about that have relevance to their everyday lives, such as gas prices, sending their kids to school. Many academically talented children are not able to go to school because their parents are not rich.

Mr. DURBIN. If the Senator will yield for an additional question, they say debate on the floor of the Senate is about the "M" word, about marriage. It strikes me that it is not about the preservation of marriage, it is about the preservation of the "majority," the Republican majority. That is the "M" word behind this debate.

I ask the Senator from Nevada, if this issue is not creating a national problem or crisis, if it ranks so low among the American people, 33rd on the list of the important things facing America, why, I ask the Senator from Nevada, has the Republican majority ignored all the issues that people care about and count on us to do something about? Why are they ignoring all these issues and moving to this issue of gay marriage and proposing a constitutional amendment?

Mr. REID. Mr. President, the chairman of the Judiciary Committee on the floor yesterday said this issue dealing with marriage is a solution in search of a problem. It is being done, I believe, to divert, distort, and confuse Americans as to what the real problems are. Do anything possible, but don't talk about gas prices because if we talk about gas prices, we would have to bring out on the floor that the most oil-friendly Presidency in the history of this country is now at 1600 Pennsylvania Avenue. The President made his fortune in oil. Vice President CHENEY is still mak-

ing his fortune in oil. He made it with Halliburton. Secretary of State Condoleezza Rice was on the board of directors of Chevron. They liked her so much they named a tanker after her. The Secretary of Commerce made his fortune in oil. We could go on and on.

If we talk about the issues affecting the American people, then maybe what we would do is Senator MARIA CANTWELL's price-gouging bill. Exxon made \$34 billion in net profit last year, which is the most money a corporation has ever made in the history of America. So, no, the majority doesn't want to talk about these issues, about the tax credit for sending kids to college.

Mr. DURBIN. If the Senator from Nevada will further yield for a question, I ask the Senator, is it not true that the resolution before us would require 67 votes in order to be approved by the Senate?

Mr. REID. That is true.

Mr. DURBIN. And the last time we considered this measure, some 48 Senators voted for it? It fell far short of what it needed.

Mr. REID. Nineteen short.

Mr. DURBIN. So I ask the Senator from Nevada, does he reasonably believe now there are 67 votes or near 67 votes for this resolution?

Mr. REID. Mr. President, the distinguished Senator from Illinois knows, as I know, that there isn't a person in the Senate who thinks this has any chance of passing—no chance of passing. It will get 48, 50, 51 votes. I don't know how many votes it will get. If it were a straight up-or-down vote on an amendment, it would get less than that because some Republicans have said: This is a procedural vote, I am going to vote to allow it to go forward, but if it were here, I probably wouldn't vote for it. So you probably have in the Senate 41 or 42 sound votes for this.

Mr. DURBIN. If I can ask the Senator from Nevada, how much time do we have? If we take a week and spend it on a gay marriage amendment, and then a week and spend it on a flag amendment, and then another week and spend it on, let's say, repealing the estate tax on the wealthiest people in America, don't we have a lot of time left before the election to consider issues such as the war in Iraq, energy costs, health insurance for all American families, the cost of education, and the appropriations bills? How much time do we have if we take 3 weeks?

Mr. REID. Approximately 45 legislative days, that is all.

Mr. DURBIN. Before the election.

Mr. REID. That is right.

Mr. DURBIN. I ask the Senator from Nevada, he says we have 45 days, and we are going to spend 3 or 4 days this week on an amendment that doesn't have any chance, that ranks 33rd in a Gallup poll when it comes to the interests of the American people—I return to the same basic question: Why? Why are we doing this? Why aren't we focusing on issues that count if we have so little time?

Mr. REID. One of the Democratic Senators spoke with the majority leader. The majority leader said these things need to come up every year or two. That is the reason.

Mr. DURBIN. I ask the Senator from Nevada, it is a shame—I ask him, does he think that perhaps if this should come up every year, even though it doesn't have a chance of passing, whether or not we should consider bringing up every year an effort to make health care more affordable for the American people, whether we ought to consider every year dealing with the war in Iraq that continues to claim American lives, whether we ought to be passing new ethics laws to reform the lobbying system in Washington? I ask the Senator from Nevada, if we are going to have an annual occurrence, if these are, in fact, perennial issues, aren't there some that should be as a matter of course called before the Senate?

Mr. REID. Maybe—I think it has been about a year; I have lost track of the time—maybe what we are going to be coming up with after these, maybe we will have the Schiavo matter come up again. What does the Senator think of that?

Mr. DURBIN. I say to the Senator from Nevada, asking this question, isn't it true the last time the Republican leadership got in trouble in the House, when the majority leader, TOM DELAY, was in his difficulty, that someone brought up the issue of intervening in the tragedy of Terry Schiavo in Florida, injecting the Federal courts into the hospital room when this poor family had spent 15 years, when this young woman was on life support, that all the courts having decided that the family could make the decision, the most intimate personal decision, the Republican leaders in the House and Senate said: No, we are going to have the Federal court step in and make the decision, take the power away from the doctor and the families?

Isn't it interesting, I ask the Senator from Nevada, that when they were facing all this grief over TOM DELAY and ethical questions, they raised the Terry Schiavo issue, and now we find them raising the gay marriage issue because the polls are so low and the election draws near?

Mr. REID. We know, I say to my friend, what can be done in this body if we get a nudge from the President, a little bipartisanship. Look what we did, I say to my friend. We spent several weeks on the Senate floor on a bipartisan basis passing a comprehensive immigration reform bill. Why were we able to do that? Because the President decided to get involved in it. He decided it was time to do comprehensive immigration reform, and I complimented him on that.

Isn't that the way we should be legislating around here, I say to my friend, the distinguished Senator from Illinois? Shouldn't we be working in conjunction with the White House on these

issues, bills that we can pass, something that has some meaning, having the President lead a charge on health care reform, not little specks of things here? How about doing something here to lessen our dependence on foreign oil. We use in America 21 million barrels of oil a day—21 million barrels of oil every day, every day, 66 percent of it is from foreign sources. We have less than 3 percent, counting what is in Alaska, for the United States. We can't drill our way out of our problems. I say to my friend from Illinois, maybe that is what it is all about.

Mr. DURBIN. If I might ask through the Chair the Senator from Nevada, the Democratic leader, did we not attend the State of the Union Address just a few months ago when the President said America was addicted to oil? It was the lead in all the stories the next day: America is addicted to oil. Then we saw the gasoline prices skyrocket causing all these hardships.

I ask the Senator from Nevada: Have we received a proposal from this White House, from this administration since that famous State of the Union Address suggesting how we can change America's energy policies to make us less dependent on foreign oil, to protect American consumers and businesses, to punish profiteering, to promote the kind of energy innovation which will lead to conservation, efficiency, less pollution, and less dependence on foreign oil? Have we heard that kind of leadership from the White House to contrast with what the President called for that we spend this week on a constitutional amendment which has no chance of passing?

Mr. REID. It is a matter of priorities, I say to my friend, a matter of priorities, what is important to this administration. Obviously, it is not gas prices. Obviously, it is not college tax deduction. Obviously, it is not this debt.

I say to my friend, even in our conversation this morning, we haven't talked about the stagnant debt. And remember, in the last 3 years of the Clinton administration, the national debt was paid down by half a trillion dollars approximately. What do we have here? Red ink as far as you can see. Have we heard anything from the President to lower this debt?

Mr. DURBIN. I ask the Senator from Nevada the following question: Is it not true that 5 years ago—6 years now, almost 6 years now when President Bush came to office—that as the Clinton administration left, we had a surplus in the Federal Treasury, that we were taking the surplus revenue collected in America, paying down the long-term debt of Social Security so that it would be strong for years to come? Is it not also true that when President Clinton left office, the entire national debt accumulated over the history of the United States was about \$5.7 trillion or \$5.8 trillion, and that today the national debt is bumping up against \$9 trillion, and in the 6 years since Presi-

dent Bush has been in office, there has been a dramatic increase in this national debt?

Is it not also true that this President, despite a war which saps away \$2 billion or more every week, he has called for tax cuts on the wealthiest people in America and continues to call for those tax cuts, despite this deficit? And I ask the Senator from Nevada, is that what fiscal conservatism is all about?

Mr. REID. My only correction of the distinguished Senator is it is \$2.5 billion a week the war is costing us, about \$10 billion a month. I mentioned, I say to my friend, the definition I got in college about a central hole divided into self-governing parts of the States. I always thought the Republican majority, as it is now, believed in States rights. That is what federalism is all about.

Where in this debate, that shouldn't be taking place on the floor right now, is there any inkling of States rights? None. Forty-five States have already, through statute or constitutional amendment, as in Nevada—Nevada amended its constitution on this issue. But where are my friends, my Republican friends? Where are they on this issue of States rights? This isn't the first time we have brought up issues that have been defeated, defeated, defeated.

Medical malpractice is something the State of Nevada took on on its own, set their own rules. The Governor called a special session of the legislature. We now have rules in the State of Nevada dealing with medical malpractice.

That is not good enough for this Republican majority. We have voted, I believe, three times on a national law dealing with medical malpractice—take the States out of the picture.

So I ask my friend, he being involved in Government in one way or another most of his adult life, does he remember the Republicans at one time standing for States rights?

Mr. DURBIN. In query of the Senator from Nevada, I ask him, I thought I understood the basic difference between Democrats and Republicans, that the so-called Republican conservative philosophy was for fiscal conservatism, avoiding debt. Now we have the largest debt in the history of the United States and getting worse without any effort by the Republicans to deal with it.

Traditionally, the Republicans argue the Government is best that governs least and gives power to the local units of government closest to the people. Now we have with this amendment an attempt to amend the Constitution and to preempt the power of the States to establish standards for marriage.

I ask the Senator from Nevada: Did we not honor States rights with the passage of the Defense of Marriage Act which said that no State shall be compelled to recognize gay marriage if any State should enact such a law, as Massachusetts has?

I ask the Senator from Nevada: Isn't the Defense of Marriage Act consistent

with States rights, and isn't the proposed constitutional amendment an assault on the rights of States to establish the standards for marriage which they have throughout our history?

Mr. REID. And I remind my friend, the Defense of Marriage Act passed when we had a Democratic President and a Democratic majority in the House and the Senate. I am quite sure that is right, at least in the Senate; I don't know about the House. We passed it because it was the right thing to do—States rights.

The other point I suggest is that it is a wrong-placed priority doing this resolution and nothing with homeland security. Just last week, the Secretary of Homeland Security decided that New York, for example, would lose \$200 million. States all around the country will have less money to protect themselves. I would think that is worth a debate on the Senate floor. Does the Senator from Illinois agree with that—homeland security?

Mr. DURBIN. I respond to the Senator from Nevada and ask a question. I ask the Senator: If someone were to step back at this moment and say the Senate is debating a constitutional amendment, which everyone concedes will not pass, we are going to spend the whole week on it, and this issue ranks 33rd on the list of priorities of the American people, the States are already dealing with it directly, they have spoken to this through a variety of constitutional amendments and referenda in each and every State, virtually every State, I ask the Senator from Nevada, does that lead to the conclusion the cynicism the American people feel toward Congress and the leadership, the Republican leadership, in this Senate has been verified by the agenda we are dealing with this week?

Mr. REID. Our time has expired, and I say yes.

Mr. DURBIN. I yield the floor.

Mr. WARNER. Mr. President, I wonder if I might ask if we could extend the time over here for a few minutes, maybe 5 minutes, to make a brief statement on this issue.

Mr. REID. The recess would be delayed for 5 minutes? Is that the request?

Mr. WARNER. Yes.

Mr. REID. No objection.

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

Mr. WARNER. I thank the distinguished leader.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I rise today with respect to S.J. Res. 1.

When considering proposed amendments to the United States Constitution, I first look back to history. In the summer of 1787, 55 individuals gathered in Philadelphia to write our Constitution. It was a very hot summer, and it was a long and arduous debate, many drafts back and forth, but careful consideration was given. Finally, in mid September, it was over. The Constitu-

tion they produced was a monumental achievement. But the Framers did not know at that time what a great achievement they had made, one that would enable the United States, today, these 200-plus years later, to become the oldest continuously surviving Republic form of government on Earth today.

Article V of the U.S. Constitution lays out the process for amending this magnificent document. In their wisdom, our Founding Fathers purposefully made the task immensely formidable. Of both Houses of Congress, two-thirds have to vote in favor of passing a proposed amendment. Subsequently, three-fourths of the states have to ratify that amendment over a period of time.

History documents that there have been many attempts to amend the U.S. Constitution. According to one study—since 1789, over 10,000 amendments to the Constitution have been proposed in Congress, but only 27 have ever been ratified.

With this historical framework in mind, I have reviewed S.J. Res. 1—the Marriage Protection Amendment.

Mr. President, I ask unanimous consent that a document referred to as the "box chart" be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. WARNER. The proposed constitutional amendment is simply two sentences. The first sentence reads that marriage in the United States shall only consist of the union of a man and a woman. This is a concept which I have consistently voted in support of—beginning with the Defense of Marriage Act in 1996, and basically on this same constitutional amendment 2 years ago. The time-honored, deeply rooted tradition of marriage between a man and a woman ought to be protected, and I support that.

But the second sentence of the proposed amendment gives me great concern. It states that neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman. It gives me concern because I don't think the second sentence speaks with the clarity to which the American people are entitled. Any number of calls are coming into my office, as they are to other Members, and clearly the callers are focusing on the first sentence. When you try to explain the second sentence, they don't understand it.

My colleagues who are supportive of this proposed constitutional amendment have stated that it is their intent that this second sentence will leave to the several States the decision of whether to recognize relationships other than marriage, such as civil unions or domestic partnerships. But if that is the case, why not simply state that in plain English that is under-

standable for the millions upon millions of Americans who are interested in this amendment? It is amazing to me that a little more than 2 weeks ago, this Senate overwhelmingly approved an amendment to make English the national language of the United States. Yet today we debate an amendment to the U.S. Constitution—one of the most grave responsibilities incumbent upon Members of Congress—America's founding document—and the second sentence of that proposed amendment fails in many ways to speak with the clarity of the English language to which our public is entitled.

Some who have spoken in support of this proposed amendment have employed a box chart on the floor of the Senate, and I have asked unanimous consent to include that in the RECORD in an effort to demonstrate that the resolution would protect marriage but permit States to recognize relationships other than marriage. If this is the case, why not simply say so? Why not simply say that the power to recognize or to prohibit relationships other than marriage shall be reserved to the several States? Or why not simply drop the second sentence altogether if it is confusing? Either option would clearly allow the 50 States to work their will on the issues of civil unions or domestic partnerships. I believe it is extremely important that we leave to the States that responsibility.

If we wrote the second sentence plainly, we wouldn't need a box chart to sit here on the floor and try to decipher it.

My own State, the Commonwealth of Virginia, is trying to work its own will on these issues right now. With the lack of clarity in this proposed federal amendment, I have to wonder whether the proposed federal amendment respects the right of the several States to act in this area.

As the second sentence of this proposed amendment is written now, the intent of the amendment simply isn't clear. What if a State legislature wanted to pass a State constitutional amendment to allow domestic partnerships? As I read this proposed amendment, it would likely preclude a State legislature from so acting. This type of unnecessary confusion will undoubtedly lead to considerable litigation if this proposed amendment is accepted in its current form.

That, it seems to me, is not the duty of the Congress of the United States, to write something that just calls upon the courts to try to determine what was the intent of the Congress. Then we have to go to the box charts. Well, to me, the box charts speak in plain English language, and that is why I am hopeful that the framers of this amendment will perhaps consider amending it.

Therein rests the concern I have with S.J. Res. 1. I unequivocally support the first sentence; I support protecting marriage as the union between a man and a woman. I am concerned, however,

that the second sentence of this proposed constitutional amendment is unnecessarily vague and could well trample on the rights of the several States of our great Republic.

I yield the floor.

EXHIBIT 1

MARRIAGE PROTECTION AMENDMENT

S.J. RES. 1

Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

| | Redefinition of Marriage | Creation of "Civil Unions" or "Domestic Partnerships" | Granting the Rights or Benefits of Marriage | Employee Benefits Offered by Private Businesses |
|-------------------------------------|--------------------------|---|---|---|
| State or federal courts can impose? | Sentence 1 prohibits. | Sentence 2 prohibits. | Sentence 2 prohibits. | Unaffected. |
| Legislature can make change? | Sentence 1 prohibits. | Decision of State Legislature. | Decision of Legislature. | Unaffected. |

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:15 p.m. today.

Whereupon, the Senate, at 12:36 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

MARRIAGE PROTECTION AMENDMENT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Under the previous order, the time is divided equally until 2:30.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I am proud to be an original cosponsor of S.J. Res. 1, the Marriage Protection Amendment.

I have heard people say that perhaps this issue should be left to the States. As a general rule, you will not find anyone who is a stronger supporter of States rights than I am. But this is a national issue the definition of marriage is and has been a national issue.

A May 22 Gallup Poll shows that a solid majority of Americans—58 percent—are opposed to granting gay marriages the same legal rights as traditional marriages. Additionally, same-sex couples are traveling across State lines to get married; as they do so, they will become entangled in the legal systems of other States, due to the full faith and credit clause of the U.S. Constitution. A State-by-State approach to gay marriage will be a logistical and legal mess that will force the Federal courts to intervene and require all states to recognize same-sex marriages. This is the only possible outcome.

The definition of marriage must be addressed, and it must be addressed now. The homosexual marriage lobby, as well as the polygamist lobby, shares

the goal of essentially breaking down all State-regulated marriage requirements to just one: consent. In doing so, they are paving the way for legal protection of such repugnant practices as: homosexual marriage, unrestricted sexual conduct between adults and children, group marriage, incest, and bestiality. Using this philosophy, activist lawyers and judges are working quickly, State-by-State, through the courts to force same-sex marriage and other practices, such as polygamy, on our country.

In 1878, *Reynolds v. United States*, which upheld the constitutionality of Congress's antipolygamy laws, recognized that the one-man, one-woman family structure is a crucial foundational element of the American democratic society, and thus there is a compelling governmental interest in its preservation.

The eroding of State common-law marriage requirements comes with a price—If we can remove the opposite-sex requirement today, then what would keep us from removing the one-at-a-time requirement, or legal-age requirement tomorrow? In June of 2003, the U.S. Supreme Court signaled its likely support for same-sex marriage and Federal jurisdiction over the issue when it struck down a sodomy ban in *Lawrence v. Texas*.

The majority opinion extended the reach of due process and the 14th amendment of the U.S. Constitution to protect:

... personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education," and then declared that "[p]ersons in a homosexual relationship may seek autonomy for these purposes, just as heterosexual persons do.

In his dissent to *Lawrence v. Texas*, Justice Scalia pointedly cautioned:

This reasoning leaves on pretty shaky grounds state laws limiting marriage to opposite-sex couples . . .

Additionally, there is a case pending in the Tenth Circuit where the petitioners are using the homosexual marriage lobby's success in *Lawrence v. Texas* to bolster their claim to a "right" to polygamous conduct and marriage.

Not only are Federal courts ruling in favor of such marriages, State courts are, too. In 2004, the Massachusetts Supreme Court ruled that same-sex couples could marry. The State's high court ruling clearly ignored tradition—even its own State legislature.

Massachusetts Governor Mitt Romney, in his testimony on June 22, 2004, before the Senate Judiciary Committee, stated:

We need an amendment that restores and protects our societal definition of marriage, [and] blocks judges from changing that definition.

Not only has the Massachusetts court ruling affected that State, it has and will continue to open the floodgate of similar decisions by other State courts across the country.

Lawsuits are now pending in nine States, including my State of Oklahoma, asking the courts to declare that traditional marriage laws are unconstitutional. Same-sex couples from at least 46 States have received marriage licenses in Massachusetts, California, and Oregon and have returned to their home States. Many of these couples are now suing to overturn their home State's marriage laws. Unfortunately, using the equal protection and due process clauses in the U.S. Constitution, State and Federal courts have begun to strike down both the Federal and State Defense Of Marriage Act, DOMA, laws, which define marriage as between a man and a woman. The judicial branch is making this a Federal issue by stripping the power from the people's elected legislatures and forcing recognition of same-sex marriages.

Today, 45 States, such as Oklahoma, have statutory and/or constitutional protection for traditional marriage. On average, State constitutional amendments have passed with more than 71 percent of the vote, including with 76 percent in Oklahoma.

In societies where marriage has been redefined, potential parents become less likely to marry and out-of-wedlock births increase. According to Stanley Kurtz's 2004 article in the *Weekly Standard*, a majority of children in Sweden and Norway are born out of wedlock. Kurtz says:

Sixty percent of first-born children in Denmark have unmarried parents—not coincidentally, these countries have had something close to full gay marriage for a decade or more.

Just last month, May, in a *National Review* Online article, Stanley Kurtz again addresses the issue saying:

Europe's most influential sociologists are saying much the same things: Same-sex marriage doesn't reinforce marriage; instead, it upends marriage, and helps build acceptance for a host of other mutually reinforcing changes (like single parenting, parental cohabitation, and multi-partner unions) that only serve to weaken marriage.

In fact, liberal German sociologists, Ulrich Beck and Elisabeth Beck-Gernsheim, have openly and honestly expressed their eagerness to expand the welfare state and destroy the traditional family.

As Kurtz puts it, they want "the government to subsidize the new, 'experimental' forms of family that emerge in the aftermath of the traditional family's collapse."

When this issue was on the floor 2 years ago, many of my conservative colleagues made statements and observations that sufficiently framed this debate.

Senator ALLARD, the sponsor of this amendment, believes our Founding Fathers never envisioned that we would be changing the very structure of marriage and that we would be changing this core structure of society when he said:

We are in danger of losing a several-thousand-year-old tradition, one that has been vital to the survival of civilization itself.

As my colleague from Kansas, Senator BROWNBACK, said: a small group of activists and judicial elite “do not have a right to redefine marriage and impose a radical social experiment on our entire society.”

And my colleague from Alabama, Senator SESSIONS, said: “If there are not families to raise . . . children, who will raise them? Who will do that responsibility? It will fall on the State.” This, to me, is one of the most troubling outcomes of the whole gay marriage debate—that the State will assume the parenting role of raising and financially supporting children.

Even Senator REID restated his personal view just yesterday, which he also expressed in 2004, when he said:

I’m personally opposed to same-sex marriage. I think a marriage should be between a man and woman.

So when 70 percent of the voters in Nevada amended their State constitution to restrict marriage to a man and a woman, and when they further amended it in 2002 with a State defense of marriage provision, with Senator REID’s full support, some of us are confused now that Senator REID thinks restricting marriage to a man and a woman is “writ[ing] discrimination into the Constitution.”

I would also like to point out that several prominent, respected religious voices in our country have spoken out against the idea of gay marriage and in support of the traditional definition.

According to “Focus on the Family,” headed by Dr. James Dobson, family is the fundamental building block of all human civilizations.

Chuck Colson, a man who most people in this body know quite well, was the founder of Prison Fellowship. He has this to say about the prospect of gay marriage:

The redefiners of marriage are working tirelessly. Their agenda is to tear down traditional marriage and make it meaningless by removing its distinctives.

The Reverend Billy Graham’s son, Franklin Graham, acknowledged that:

There is a real movement for same-sex marriage. We could lose marriage in this country the way that we know it.

Finally, Dr. Jay Alan Sekulow, chief counsel for the American Center for Law and Justice, who has argued numerous cases before the Supreme Court recognizes that “for centuries marriage has been defined as a union between one man and one woman.”

That is really what this is all about—marriage is between a man and a woman.

Civil authority did not create marriage. Marriage predates the state.

Civil authority chose to recognize it as the preferred union between a man and a woman, because it is reproductive in nature and propagates the survival of civilization itself.

We can dance around it and try to cater to certain groups, but I find something that has served me well for a number of years when something like this comes up, and that is to go back to the Law, go back to the Scriptures.

In Genesis 2:18, 21–24, God said:

It is not good that man should be alone; I will make him a helper comparable to him. . . . and the Lord God caused a deep sleep to fall on Adam, and he slept; and He took one of his ribs, and closed up the flesh in its place. Then the rib which the Lord God had taken from man He made into a woman, and He brought her to the man.

And Adam said, “This is now bone of my bones and flesh of my flesh. She shall be called woman, because she was taken out of man.” Therefore a man shall leave his father and mother and be joined to his wife, and they shall become one flesh. . . .

In Matthew 19:4–6, Jesus said:

Have you not read that He who made them at the beginning made them male and female, and for this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh? So then, they are no longer two but one flesh

The reason I read these two Scriptures is because they were quoted at a very significant event that took place over 47 years ago. It was when my wife and I were married.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I start off with a question. The question is, Why are we spending time on the floor of the Senate discussing this issue at this time? Is there anyone here unaware of the fact that Americans are bleeding in Iraq and Afghanistan? Why aren’t we talking about that war?

Mr. INHOFE. Mr. President, the Senator asked a question. I will be glad to respond to that question.

Mr. LAUTENBERG. I will not at this point accept a question. I want to make my remarks just as the Senator from Oklahoma had a chance to make his remarks. Perhaps when we are finished I will be able to accommodate the Senator.

Why are we not focused on soaring gasoline prices and the toll it takes on family budgets? People who plan their lives in my area, New Jersey—a very crowded area—have had to buy their houses some distance from their jobs because they couldn’t afford the housing. They calculated the fact they would have to drive an hour each way—not unusual—10 hours a week behind the wheel of the car. Now, with gas prices as they are, the advantage they had by buying a home at a distance is evaporating in front of them. Why aren’t we talking about that?

Why aren’t we talking about 46 million Americans without health insurance, every one of them worried about whether the next sickness is going to deprive them of their job, deprive them of their ability to feed and clothe their children and take care of them? Why aren’t we talking about those things?

Why aren’t we talking about extending stem cell research? I don’t know whether other Senators have had the same experience that I have. Families come in with children who are sick with juvenile diabetes. If you ask those children what they want out of life, they say: I want to stop having to stick my finger all the time with a needle. I

want to be able to do things just like other children.

I had a group of families with children with diabetes. I seated them around a table. By the way, the faces on these children are so beautiful. In their expressions they say: We would love you if you can help us. That is what they say. That is how I respond.

I am a professional grandfather. I have 10 grandchildren, the oldest of whom is 12 and the youngest of whom is 2. What do I want? My whole life is focused on what I can do for those kids as they grow and develop. When I look at those children, I ask the parents: Why are their faces so beautiful? They say: Because they are faces of want and need in a child, expressing that in that kind of face.

It tells you something about what we ought to be talking about and not spending our time on depriving somebody of an option that they are free to choose in this life. Why aren’t we debating a measure to make sure the Government is ready for the next Katrina? They are worried about levees in California. They are worried about levees in other low-land States where they have some exposure. We are not talking about that. Who can forget the picture of the people on the roofs of their houses begging for someone to do something to save them? No, we are not talking about that. We do not want to talk about that.

Why aren’t we preparing for a possible bird flu epidemic? We know that is a very serious topic.

Forget those topics, we are told. President Bush and the Republican leadership want Congress to drop everything to debate gay marriage. I have lots of visitors in my offices in New Jersey and here. Not one of them came to talk to me about gay marriage. They came to talk to me about health insurance. They came to talk to me about their pensions disappearing. They talk to me about their inability to afford their children’s education when they want to prepare for a career. They talk about the burden of gas prices. That is what they want us to do something about. They are not discussing gay marriage. They are not in there discussing opening up the Constitution to amendment.

If we pass this amendment, history will record for the first time ever that we wrote discrimination into the United States Constitution. Think about that, the first time we have ever put discrimination against anyone in our Constitution.

In the Bill of Rights, every amendment is written to expand individual rights. That is what our Constitution is about. It is a wonder, the thinking of our forefathers. The Bill of Rights was first signed in New Jersey. If you look at all the amendments to the Constitution, only once did we restrict rights. That was Prohibition. And it did not take long to repeal that. The American people were not going to obey the law.

They violated it in every way. Why create laws that cannot mean anything to people?

President Bush held an event on Monday night with supporters of this amendment. At that event, the President did something totally irresponsible. It is hard to believe a President of the United States said what he said. He rallied his right-wing audience against our Nation's court system.

Now, we talk here about separation of powers and how important it is that the three legs of Government are able to exercise their obligations. The President went so far as to say that the American courts are "imposing their arbitrary will on the people." How about when the Court imposed its arbitrary will on the election of a President? What was said then? To suddenly say that the courts have no jurisdiction of their own, free of criticism from the President of the United States, is the President saying our courts do not follow the law? Could people quote the President to justify ignoring a court decision, just to score political points with a narrow interest group?

The President chooses to undermine our Nation's system of courts and laws. It is a dangerous form of political pandering.

This constitutional amendment would not just ban same-sex marriages. It also threatens civil unions, domestic partnership laws, laws passed by States to recognize relationships and conferring legal rights between partners. Is our goal to strip all of these relationships of their dignity?

Once the Federal Government starts regulating marriage, what is next? What is going to stop Congress from acting as the morality police and prohibit people from getting married unless they pledge to have children or unless they pledge to restrict the number of children they have? What is going to stop this body from outlawing divorce?

I don't think the actual motive for this amendment is morality. The motive, as I see in this amendment, is pure raw politics. Republicans have their backs against the wall. So look what the people think of the President of the United States and the job he is doing. They think poorly of him. If they had the right, they would fire him.

When I was running a company, before I was running for the Senate, if I thought so poorly of someone, I would fire him. I would not keep him.

No, this is a salvage operation for the Republican Party. We are debating this amendment now because it is an election year. That is why. Why did we have this debate in 2004 and this year but not in 2005? Let's defer this until 2007. I am willing to do that. We can discuss it in a year, when there is not an election in the offing.

This is simply political gay-bashing. That is the mission, try to "husband" the resources you have, the support you have, and pick on a group of people. The backers of this amendment

want to drum up hysteria where none currently exists. They want to change the subject away from the issues such as Iraq and gas prices. It is a shameful attempt to divide the American people for political gain.

Today, the 6th of June, is the anniversary of D-Day. On June 6, 1944, Americans from every corner of our country fought to protect our values and our families. Today, we are tarnishing the memory of D-Day by working to amend our Constitution to restrict individual freedoms.

I was wearing a uniform that day. I was overseas. I was not on the combat line, but I knew what I was doing was good for my country. Sixteen million of us served in the military in World War II.

I had visitors just last Thursday night at my office in New Jersey, about 10 people. One person lost their son. This woman was angry. I had spoken to her when his death was announced over a year ago. She was angry. He was a second lieutenant. His assignment that day was to diffuse bombs. She said: My son was trained to man a gun in the artillery. That is what his mission was. He was diffusing a bomb and he lost his life: The country that sent my son overseas is a country that helped my son die.

There was a woman with tears running down her face: Our son has been wounded once; they say he is ready to go back to combat. He has a Purple Heart. I don't want him to go back. Crying bitterly, in front of me.

There was a couple whose son is due for a second tour of duty. People in this unit were lost in the first tour. Why, now, they ask, is he going back to this war that does not do anything for America?

No, we do not want to discuss that in the Senate. That is too serious. That brings home the toll and the anguish that exists with our time in Iraq. We ought to be talking about what we do to get out of there safely and quickly. That is what we ought to do. But, no, we are talking about gay marriage. I can just see the people in arms across this country saying, The first thing I want you to do is make sure there is no gay marriage in this country. The devil with my kids education, the devil with my need for health care, the devil with our ability to be able to afford to live now in the country. Two people working so many jobs, just about keeping their heads above water.

Every Senator in this Senate values the institution of marriage. In my view, the way to honor marriage is to provide families with economic opportunity, good schooling for their children, a clean environment to live in, health care they can afford and funding for medical research that can help fight the diseases that plague children, such as juvenile diabetes, autism, or asthma. There are so many problems we could help prevent.

The amendment before the Senate today is not about protecting mar-

riage. It is about directing people's lives, about making sure you behave in a particular way. Those of us who are talking against this do not necessarily support gay marriage. What we support is freedom, freedom to choose your lifestyle. That is what we are talking about. In State after State they are writing their own laws, what they think is appropriate for the people in their State—not to restrict them but to open their opportunity.

I hope my colleagues will reject this divisive amendment. Let's get on with far more pressing issues facing our Nation that can improve our national health, can improve our national will, can improve our national morale.

Those are the things I would like to do instead of looking and seeing what people really think about all of us in this place, all of us, from the White House, to the Senate, to the House. What do the American people think about the work we are doing? They do not think a heck of a lot of good is coming out of here. Frankly, we give them good cause because what we are paying attention to is what matters least to most Americans. What matters most in these Chambers, unfortunately, at this time is politics and elections. Too bad, America.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Wisconsin.

MR. FEINGOLD. Mr. President, first let me praise the Senator from New Jersey and associate myself with his excellent remarks in opposition to this amendment both on marriage and with regard to the obvious point that we should be working on issues affecting the American people.

The Constitution of the United States is a historic guarantee of individual freedom. For over two centuries, it has served as a beacon of hope, an example to people around the world who yearn to be free and to live their lives without Government interference, with their most basic personal decisions.

I, like everyone else in the Senate, took an oath when I joined this body to support and defend the Constitution. I am saddened, therefore, to be once again debating an amendment to our Constitution that is so inconsistent with our Nation's history of expanding and protecting freedom.

There are serious issues facing this Congress. The fight against terrorism, the war in Iraq, health care, high gas prices, relief and recovery after Hurricane Katrina, the economy. These are the issues upon which the American people are demanding that Congress act. But instead, we are spending much of this week debating the poorly thought out, divisive, and politically motivated constitutional amendment that everyone knows has no chance of success in the Senate.

The proposed constitutional amendment before the Senate today, Senate Joint Resolution 1, has no better chance of getting a two-thirds majority

in the Senate than it did in 2004, which was another election year. There are no new court decisions that supporters of the amendment can legitimately argue make it any more imperative now than it was then that such an amendment be passed. Yet the Judiciary Committee was ordered to mark up this amendment to fit a schedule announced by the majority leader months ago.

This is pure politics, an election-year gambit. We should not play politics with the Constitution, nor should we play politics with the lives of gay and lesbian Americans who correctly see this constitutional amendment as an effort to make them permanent second-class citizens.

The amendment we are all debating will not pass, but it still risks stoking fear and divisiveness at a time when we should be trying to unite Americans. Gay and lesbian Americans are our friends, our family members, our neighbors, our colleagues. They should not be used as pawns in a cynical political exercise.

Backers of the amendment say they want to support marriage. But this debate is not really about supporting marriage. We all agree that good and strong marriages should be supported and celebrated. I happen to believe that two adults who love each other and want to make a lifelong commitment to each other, with all of the responsibilities that that entails, should be able to do so, regardless of their sex. I know others strongly disagree.

The debate we are having in the Senate, however, is not about whether States should permit same-sex marriage. The debate is about whether we should amend the Constitution of the United States to define marriage. The answer to that question has to be "no." It is unnecessary and wrong for Congress to legislate for all States, for all time, on a matter that has been traditionally handled by the States and religious institutions since the founding of our Nation. For that reason alone, this amendment should be defeated.

There is no doubt that the proposed Federal marriage amendment would alter the basic principles of federalism that have served our Nation well for over 200 years. The Framers of our Constitution granted limited, enumerated powers to the Federal Government, while reserving the remaining powers of government, including family law, to State governments. Marriage has traditionally been regulated by the States. As Professor Dale Carpenter told the Constitution Subcommittee in its first hearing on this topic nearly three years ago, "never before have we adopted a constitutional amendment to limit the States' ability to control their own family law." That is exactly what this proposed amendment would do. It would permanently restrict the ability of States to define and recognize marriage or any legally sanctioned unions as they see fit.

One of our distinguished former colleagues, Republican Senator Alan

Simpson, opposes an amendment to the Constitution on marriage. In an op-ed in the Washington Post, he stated:

In our system of government, laws affecting family life are under the jurisdiction of the states, not the federal government. This is as it should be. . . . [Our Founders] saw that contentious social issues would be best handled in the legislatures of the states, where debates could be held closest to home. That's why we should let the states decide how best to define and recognize any legally sanctioned unions—marriage or otherwise.

Columnist William Safire has also urged his conservative colleagues to refrain from amending the Constitution in this way. Commentator George Will takes the same position.

I recognize that the current debate on same-sex marriage was hastened by a decision of the highest court in Massachusetts issued in late 2003. That decision, in a case called *Goodrich*, said that the State must issue marriage licenses to same-sex couples. But the court did not say that other States must do so, nor could it. And it did not say that churches, synagogues, mosques, or other religious institutions must recognize same-sex unions, nor could it. Even Governor Romney of Massachusetts, who testified before the Judiciary Committee in 2004, admitted that the court's decision in no way requires religious institutions to recognize same-sex unions. No religious institution is required to recognize same-sex unions in Massachusetts or elsewhere. That was true before the *Goodrich* decision, and it remains true today.

Indeed, as time has passed since the Massachusetts court ruling, I think it has become clear that passing a constitutional amendment would be an extreme and unnecessary reaction. States are in the process of addressing the issue of how to define marriage. Voters in several States passed marriage initiatives in the last election. The legislature in Connecticut recently passed a civil union bill and the Governor signed it. In California, a bill passed by the legislature to permit same-sex marriages was vetoed but new protections for domestic partners were signed into law. The States are addressing the issue in different ways, which is how our Federal system generally works. I may agree with some State actions and disagree with others, but it would be a tragic mistake to cut this process off prematurely.

I was particularly struck by reports on what happened recently in the Massachusetts Legislature. The legislature narrowly passed a constitutional amendment in 2004 to prohibit same-sex marriage, but when the amendment returned in 2005, as the Massachusetts Constitution requires in order to put it on the ballot, the legislature rejected it by a vote of 157 to 39. Many supporters of the amendment apparently changed their minds.

So we should think long and hard about pre-empting State legislatures or State initiative processes through a Federal constitutional amendment

that freezes in place a single, restrictive definition of marriage.

The supporters of the Federal marriage amendment would have Americans believe that the courts are poised to strike down marriage laws. They suggest that we will soon see courts in States other than Massachusetts requiring those States to recognize same-sex marriages, too. Of course, no such thing has happened in the 2 years since the *Goodrich* decision went into effect in May 2004. So this is a purely hypothetical issue—hardly a sound basis for amending our Nation's governing charter. And even if another State followed Massachusetts, either by legislative action or a judicial ruling, I believe it would be a grave mistake for Congress to step in.

As Professor Lea Brilmayer testified before the Constitution Subcommittee in 2004, and as remains true today, no court has required a State to recognize a same-sex marriage performed in another State. And as Professor Carpenter testified:

the Full Faith and Credit Clause has never been understood to mean that every state must recognize every marriage performed in every other state. Each state may refuse to recognize a marriage performed in another state if that marriage would violate the public policy of that state.

In fact, Congress and many States have already taken steps to reaffirm this principle. In 1996, Congress passed the Defense of Marriage Act, a bill I did not support, but that is now the law. Section 2 of DOMA is effectively a reaffirmation of the full faith and credit clause as applied to marriage. It states that no State shall be forced to recognize a same-sex marriage authorized by another State.

In addition, 38 States have passed what have come to be called "State DOMAs," declaring as a matter of public policy that they will not recognize same-sex marriages.

There has not yet been a successful constitutional challenge to the Federal or State DOMAs. In fact, three such challenges have already failed. Of course, it is possible that the situation could change. A case could be brought challenging the Federal DOMA or a State DOMA, and the Supreme Court could strike it down. But do we really want to amend the Constitution simply to prevent the Supreme Court from reaching a particular result in the future? What kind of precedent would such a preemptive strike against the governing document of this Nation set?

Former Representative Bob Barr, the author of the Federal DOMA, strongly opposes amending the Constitution on this issue. He believes that amending the Constitution with publicly contested social policies would "cheapen the sacrosanct nature of that document."

He also warned:

We meddle with the Constitution to our own peril. If we begin to treat the Constitution as our personal sandbox, in which to build and destroy castles as we please, we risk diluting the grandeur of having a Constitution in the first place.

My colleagues, those are the words of the author of the Federal DOMA statute. That is what he said about the wisdom of trying to amend the Constitution in this manner. I have spoken with Mr. Barr about this. He and I disagree about many things. But we agree wholeheartedly that the Constitution is a very special document and that amending it to enact the social policy of the moment would be a grave mistake.

So far I have been discussing the general arguments against a Federal constitutional amendment defining marriage. I think they are compelling. But I also want to take some time today to discuss the specific text we are now considering: S.J. Res. 1, the so-called Marriage Protection Amendment. The amendment states:

Marriage in the United States shall consist only of the union of a man and a woman.

That is what we have come to refer to as sentence one. The amendment continues in sentence two:

Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

Before I discuss some of the ambiguities in this language, let me first remind my colleagues that this whole effort has often been portrayed by its proponents as a reaction to so-called "liberal activist judges" reinterpreting marriage. Time after time, we are told that judges have made law, in cases like the Supreme Court's decision in *Lawrence v. Texas* that State sodomy laws are unconstitutional, in the Massachusetts decision in *Goodrich*, and in the Vermont State court decision that forced the State legislature to adopt a civil unions law. This amendment is needed, we are told, to counteract and correct those missteps and to make sure they don't happen again. Keep that underlying concern in mind as we discuss the ambiguities of this language and who will ultimately decide how they are to be resolved.

A question that is important to many Senators, and to many Americans, as they consider this constitutional amendment is how it will apply to laws passed by State or local governments granting same-sex couples the right to enter into civil unions or domestic partnerships to become eligible for government recognition of their relationships and for certain benefits. One of the witnesses at the last hearing we held in the Subcommittee on the Constitution, Professor Michael Seidman, from Georgetown University Law Center, testified quite convincingly about the ambiguity of the language of this amendment on that question. And so chairman of the subcommittee asked if he had thought about how to draft the amendment to, as he put it, "hit the mark."

Professor Seidman responded:

Part of the problem is I think the people behind the amendment themselves are not in agreement on how to go. . . . So with re-

spect, Senator, I think you guys have to get straight what you want before you tell me how to go about drafting it.

At the last subcommittee hearing on this topic, I asked the witnesses that subcommittee Chairman BROWNBACK had called some specific questions about this issue and then I asked them to respond to written questions about how they believe S.J. Res. 1 would apply to a challenge brought against specific State legislative actions. I have asked these questions of previous witnesses as well, and I have seen statements from many of the supporters of the amendment. I think Professor Seidman is absolutely right. It is simply not clear what the sponsors of this amendment intend.

Let's start with civil unions. Would this amendment outlaw civil unions? Specifically, would the recently passed Connecticut statute that establishes civil unions in that State be unconstitutional under this amendment? The Connecticut statute provides as follows:

Parties to a civil union shall have all the same benefits, protections and responsibilities under law, whether derived from the general statutes, administrative regulations or court rules, policy, common law or any other source of civil law, as are granted to spouses in a marriage, which is defined as the union of one man and one woman.

Professor Richard Wilkins, from Brigham Young University, whom I understand was consulted in the drafting of the amendment, answered my written question as follows: "The language quoted from Section 14 of the Connecticut statute would not be unconstitutional under the proposed amendment." But Professor Gerard Bradley, from Notre Dame, another drafter of the amendment, testified as follows at our hearing in April:

The amendment leaves it wide open for legislatures to extend some, many, most, perhaps all but one, I suppose, benefit of marriage to unmarried people, but I would say if it is a marriage in all but name, that is ruled out by the definition of marriage in the first sentence.

And Professor Christopher Wolfe, from Marquette University, another witness from the subcommittee's last hearing, agrees with Professor Bradley. He said the following in answer to my written question:

I think Connecticut's civil union scheme, which was enacted by the General Assembly without any judicial involvement, would be unconstitutional under the Marriage Protection Amendment, because it effectively authorizes marriage for unions of two men or two women, since the only difference between civil unions and marriage is the name.

Groups supporting the amendment like the Alliance for Marriage and Concerned Women for America seem to think the amendment will permit legislatures to enact civil union legislation. In a radio interview during the Senate's consideration of the amendment in 2004, Bob Knight, the head of that Concerned Women for America, suggested that wasn't such a good thing. He said:

The second sentence was so convoluted that many legal scholars disagreed about what it actually meant, and its backers assured everyone that it meant States could pass civil unions, which is not the way to protect marriage. Civil unions are gay marriage by another name.

As recently as November 2005, the Web site of the Alliance for Marriage had the following explanation of a chart in which it says that "quasi-marital schemes" such as civil unions would be permitted if adopted by a State legislature rather than imposed by court:

The second sentence ensures that the democratic process at the state level will continue to determine the allocation of the benefits associated with marriage.

Interestingly, this chart no longer appears on the Web site. I won't speculate about why that is, but it does seem like an important question for supporters of this amendment to get their stories straight on. There are States in the country today that authorize civil unions. How would this constitutional amendment affect those laws? We know what the supporters of the amendment intended with respect to the law in Massachusetts, but what about in Vermont, and Connecticut, and California, and New Jersey? What are duly elected State legislatures, in the exercise of their responsibility to enact laws consistent with the values and preferences of their citizens, allowed to do, and what are they prohibited from doing? Don't they deserve to know?

I could go on and on here, but let me mention Professor Scott Fitzgibbon of Boston College Law School, who also testified in support of the amendment at the subcommittee's last hearing. Mr. Fitzgibbon simply declined to answer when I asked him at the hearing whether the amendment would allow a State employer to give benefits to unmarried domestic partners of its employees. And he also refused to answer a followup written question about whether Connecticut's civil union law would be constitutional. But he did say the following at the hearing:

I am just going to say that the degree of ambiguity . . . isn't such a terrible thing. This isn't part of the tax code. It is proposedly [sic] a part of the United States Constitution and constitutional provisions rightly leave some scope for later determination.

So there you have it, Mr. President. The supporters and drafters of this amendment can't agree on how it would affect civil union laws like the one recently enacted by the democratically elected legislature of the State of Connecticut. And at least one of them says that ambiguity is not such a terrible thing. It is normal for constitutional provisions to leave "some scope for later determination" he says.

So who will decide this question, which everyone can anticipate will be raised if this amendment becomes part of the Constitution? Who is responsible in our legal system for making a "later

determination," as Professor Fitzgibbon calls it, of the meaning of a constitutional amendment? You guessed it. It is the courts! Given how this whole exercise of trying to define marriage in the governing document of our country started—outrage over a State court's interpretation of a State constitution and fear of supposedly "activist judges" taking it upon themselves to redefine marriage—that is ironic indeed.

Now Professor Wolfe had an interesting suggestion when he answered my written questions concerning the California and New Jersey domestic partner statutes. Last summer, the California Legislature enacted a statute that grants all the same rights to domestic partners as it does to married spouses, except the right to file a joint tax return. All the rights and benefits but one. Under Professor Bradley's interpretation, that's probably okay. Professor Wilkins agrees that California's statute would survive a challenge. The chart that used to be on the Alliance for Marriage's Web site also agrees. I think a few of my colleagues made similar statements yesterday on the floor. But Professor Wolfe isn't so sure. He says in his written response to my question:

It could be argued that it is unconstitutional under the Marriage Protection Amendment for the same reason that the Connecticut civil union law is unconstitutional, since—even though one provision provides one exception—the general principle of the law (in Sec. 4) defines the domestic partnership as being equivalent to marriage. The single exception could easily be viewed as merely an evasive maneuver to avoid a pure equivalence that would make the statute constitutionally vulnerable.

It could also be argued, however, that there is a difference between this domestic partnership law and marriage (beyond just the name), and therefore domestic partnership is not marriage in everything but name, and therefore it is within the constitutional power of the California legislature to pass. . . . In a close case like this, I think the legislative history would be likely to play a determinative role in the final decision.

He goes on in an answer concerning the New Jersey domestic partnership statute to make his suggestion:

Of course, it would be desirable to clarify this question, if possible. For example, offering an unambiguous statement of the meaning of the amendment in the legislative history (e.g., the committee report on the amendment, and representations—uncontradicted by other supporters of the amendment—of the amendment's sponsors in floor debate) would be likely to have a substantial impact on how the amendment would be understood by those who have to vote on it, in Congress and in State legislatures.

Well there's a novel idea. Let's have an "unambiguous statement" of the meaning of the amendment, uncontradicted by other supporters of the amendment. But Professor Wolfe, a supporter of the amendment, doesn't know what it is. He answered my questions as if they were a law school exam hypothetical. This amendment has been around for nearly 3 years and we

still don't have that unambiguous statement. Will we get one in this debate on the floor? I don't know. I do know that some of the most ardent supporters of the amendment in the Senate are strongly opposed to civil unions as well. But will the amendment they wrote to supposedly protect marriage outlaw civil unions and domestic partnerships? It is not clear to me yet, and when we are talking about amending the Constitution of the United States, I think it should be.

The Senate and State legislatures—not to mention the American people—deserve clear and reliable answers to these questions before they are asked to decide whether to amend the Constitution. So I would hope that every Senator who is planning to vote "yes" on this amendment today will tell us before we conclude this debate what he or she thinks the amendment means and how it would apply to State statutes already on the books, as well as others that might be passed. Maybe we will get that unambiguous statement we have waited so long for. Then again, maybe we won't.

Even though Professor Wolfe answered my question as if it were a law school exam—saying "it could be argued on the one hand. . . . But on the other hand"—this is not just an academic exercise. It will have an impact on the lives of millions of Americans.

Mr. President, as you can tell, I am very concerned about the Senate considering this amendment on the floor without any certainty about what it means or how it will be applied. Fortunately, it seems clear that supporters of this amendment don't have the votes to pass it in the Senate. So the lack of clarity has no real world repercussions for now. But it is extremely disappointing that we may vote in the United States Senate on an amendment to the Constitution of the United States with such basic questions unresolved.

The Judiciary Committee should have fully explored these questions. Instead, because of the rigid schedule to bring this matter to the floor, the committee considered the amendment hastily and out of the public eye, without cameras, without microphones, with only a handful of press and no members of the public present. That is no way to treat any important legislative matter, let alone an amendment to the basic governing charter of our country, the Constitution. As a result, the amendment did not receive the kind of searching inquiry and debate that a constitutional amendment should receive. Our hearings in the Subcommittee on the Constitution exposed serious questions about the meaning and effect of the amendment, including the conflicting answers to written questions that I have discussed. Further work in the committee might have shed light on those questions for our colleagues in the Senate who are now faced with having to vote on the amendment. But it seems that

politics often trumps reason in this body during an election year. And when the majority leader has promised interest groups supporting this amendment that there will be a floor consideration on a particular day, there is apparently nothing that can stand in the way of that promise being kept. Not even respect for the Constitution of the United States.

We should not write discrimination and prejudice into the Constitution. And we should not prematurely cut off the important debates taking place in States across the country about how to define marriage by putting in place a permanent, restrictive Federal definition of marriage.

As we sit here today, there are Americans across our country out of work, struggling to pay the month's bills, worrying about their lack of health insurance or their ability to put their kids through college. Instead of spending our limited time this session on a proposal that is destined to fail and will only divide Americans from one another, we should be addressing the issues that will make our Nation more secure, our communities stronger, and the future of our families brighter.

I urge my colleagues to oppose this unnecessary, mean-spirited, divisive and poorly thought out constitutional amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I want to take a moment to respond. First of all, the States are trying to handle the issue of marriage. The problem is that the courts are changing those actions. Even worse than that, we have citizens who initiated issues on marriage within the States, and now we have the courts overturning that when those issues have passed by 70 percent or more.

I felt that needed to be clarified.

I think the amendment is very clear, particularly the second sentence, when you know that refers to the courts and we are limiting the powers of the courts. We have not done anything to restrict the power of the legislature, except on the definition of marriage which is between a man and a woman.

This is an important issue, and I think we need to assure that the States will have a key role as far as handling issues related to marriage. That is what this amendment is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I stand in strong support of this proposed amendment to the U.S. Constitution to uphold and affirm traditional marriage.

Several years ago, when folks who were focused on the health of marriage and the upbringing of children from around the country gathered to begin to attack this problem, they came to the Congress with the idea of proposing a constitutional amendment. They

went to certain Members of both the House and Senate, Republicans and Democrats. I was in the House at the time, and I was honored that I was one of the four House Republicans—there were eight House Members in all, four Republicans and four Democrats—whom these leaders approached to be original coauthors of this constitutional amendment. I immediately agreed and have been very involved in the debate and the fight ever since then.

I am very happy to bring this work to the Senate with so many other leaders such as Senator ALLARD, who has been leading the effort for some time. This is a very important effort because—it is often said, but it is very true and it is worth repeating—marriage is truly the most fundamental institution in human history. Think about that statement and the significance of it: It is the single most fundamental social institution in human history.

Certainly, we should not rush, as we are at the present time through activist courts, to radically redefine it after thousands and thousands of years of living under the traditional definition.

Mr. President, often in the Senate we get very wrapped up in our debate and our laws and proposals and Government programs. We think so much is changed by that and so much hinges on that. Yet what is so much more important and more fundamental are those enduring—hopefully enduring—social institutions such as marriage, community, church, and faith communities. We need to realize how central those sorts of institutions are and how important they are in terms of influencing behavior in our society—good and bad behavior. When we look at so many of the social ills we try to address in Congress with Government programs and proposals, serious social problems such as drug abuse, teenage pregnancy, and the like, perhaps the single biggest predictor of good results versus bad results is whether kids come from a stable, loving, nurturing, two-parent family, a mother and a father. That doesn't mean you cannot have success raising a child in other environments, such as in a struggling one-parent household. It means that the odds are so much more stacked against you when you move to that other sort of environment.

So I think it is very appropriate and well overdue that we in the Senate focus on nurturing, upholding, preserving, and protecting such a fundamental social institution as traditional marriage. A lot of folks in Washington don't fully understand that. But I can tell you that real people in the real world, certainly including in Louisiana, get it. That is why 2 years ago, in 2004, we passed a State constitutional marriage amendment in Louisiana to uphold traditional marriage. We passed it with 78 percent of the vote. Folks in Louisiana want those values upheld. They don't want them redefined radically by activist courts,

particularly people in courts in other States such as Massachusetts. And make no mistake, that is what is happening. That trend would have an impact not just in isolated States such as Massachusetts but throughout the country as marriage is redefined by liberal activist judges and others. So the people in Louisiana and a solid majority of people around the country want us to address this issue nationally through a constitutional amendment once and for all. That is why I strongly support this effort.

I thank the Senator from Colorado and others again for leading this fight in the Senate. I was proud to help lead it in the House when I was there. I am proud to join other allies on the floor of the Senate. Again, rather than focus on all these new Government programs, new little ideas that we run to the floor of the Senate with every day, let's take time to remember and focus on truly significant, enduring social institutions, which are the greatest predictors and factors in terms of encouraging good behavior and success, discouraging bad behavior and failure. This is the way we can have the most impact on those problems we debate endlessly, such as drug abuse, teenage pregnancy, and the like. I urge all of my colleagues to join us in this effort.

I predict that, while we may not reach the two-thirds vote we ultimately need with this vote this week, we will make important progress, we will pick up votes since the last time the Congress voted on this issue in 2004. I am one small example of that progress because my election in 2004 meant that this vote went from a "no" vote of my predecessor, John Breaux, to a proud "yes" vote of the junior Senator from Louisiana now. I look forward to casting that vote. I urge my colleagues to rally around enduring, positive social institutions that are so essential for the health of families, kids being brought up and, indeed, our society.

With that, I yield back my time.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, when I first ran for office to represent my folks out in Utah, I announced my candidacy because of my deep love for my country and my State. My appreciation for both has only deepened over the years. Perhaps the most remarkable characteristic of this country—one that, in my opinion, is distinctly American—is our tolerance, our willingness to accommodate the very beliefs of our fellow citizens. After all, our country's motto is *E Pluribus Unum*—out of many, one.

But we accept these differences because we share so much else. We sometimes forget it around here, but we agree more than we disagree, or at least that is what I hope for. We all believe in the dignity of the human person. We all believe that men and women were endowed by their Creator

with certain inalienable rights, and the Government exists to secure those rights. For us, and for our constituents, this is common sense. The same is not true in many other countries, where these basic ideas are debated by all and rejected by some.

We should remember this heritage of respect when we debate the marriage protection amendment. There are strong feelings on both sides of this issue.

I support this amendment. Marriage and family life are the bedrock of American society—the schoolhouse of American citizenship—and judges should not be altering this fundamental institution.

I understand that some of my colleagues believe we should be debating something that they see as of greater consequence. But for many in this body, and for millions of people throughout the country, including in Utah, no issue is more important. During this debate, we should treat each other fairly, with respect, and with an openness to the good-faith arguments on both sides of this amendment.

There is precedent for this. A few weeks ago, the Senate passed an immigration bill. I voted against it, but I agreed with the sentiments of my colleagues who concluded, after the die was cast, that the Senate had behaved admirably. Tensions ran high, but we had a respectful and serious debate about the issues. We voted amendments up and down. I am not saying I saw any Websters, Clays, or Calhouns on the floor, but our respect for one another's opinions and well-intentioned debate certainly did them proud. This is not to say that I was happy with the final product. Even as a purported compromise, it left so much to be desired that I was compelled to vote against it. Yet, I was encouraged by the process and the respect that we showed for the deeply held opinions of fellow Senators.

Unfortunately, the debate over the marriage amendment seems to be unfolding quite differently. You would not know it from the arguments of the opponents, and you would not know it from the lack of treatment it has received in some news outlets; but this is an important issue to Americans. This might not be a major issue for those who live inside the beltway, but for my neighbors in Salt Lake City, my constituents throughout Utah, and good, decent Americans across the country, this is a critical issue.

This debate is not some sideshow for a small sliver of activist groups. Majorities of Americans across the Nation support the protection of traditional marriage laws. This support is not limited to red or blue American. States in every region of the country have worked in recent years to reaffirm the traditional definition of marriage. Forty-five States have either a State constitutional amendment or a statute that preserves traditional marriage laws. Nineteen States have codified the

definition of marriage in their State constitutions. In 2004, 13 States, including Utah, overwhelmingly passed their own constitutional amendments to preserve traditional marriage. I was proud to join the majority of my fellow citizens in supporting the adoption of Utah's measure to protect traditional marriage. Seven more States will vote on their amendments this year.

Yet, for those opposed to this amendment, these constituent concerns are not worth our time. I disagree. Yesterday the distinguished Democratic leader came to the floor—a dear friend of mine—with a laundry list of issues that we could be addressing instead of this amendment. Along with the Democratic whip, he did so again today. Ultimately, I think we are capable of chewing gum and walking at the same time. In 2 days, we will be taking up floor time to debate a bill to create a race-based government for the State of Hawaii. I will not hold my breath waiting for these same folks to argue then that we should be discussing more pressing issues.

I wish those dismissing the importance of this issue would let us look at their phone logs. I know that in my office our phones have been ringing off the hook. Utah is a pretty conservative State, but I don't doubt that other members from across the country are hearing the same thing. The constituents who support this amendment, and others like it in the States, understand something that the sophisticated proponents of same-sex marriage do not—our marriage laws permeate our entire culture and we need to be wary about letting the judiciary foist some untested and, frankly, unwanted social experiment on an entire Nation.

Unless we allow an the American people to decide this issue themselves through the amendment process, it is only a matter of time before some renegade judges take it upon themselves to decide it for the American people.

Yet, some in this body apparently prefer to put their heads in the sand.

They know that this is an important issue. But they are tied in knots. A few weeks ago, Howard Dean, the Chairman of Democratic National Committee was for traditional marriage before he was against it. One day the Democratic Party was for traditional marriage. The next day, efforts to protect traditional marriage were tantamount to discrimination.

The bottom line is that some liberal interest groups are attempting a redefinition of marriage, and they are out there all alone on this issue. Vast majorities of Americans support traditional marriage. But some of my colleagues on the other side of the aisle are so dependent on these activist groups for support that they sometimes feel they cannot go against them. I think this is why we are having a cloture vote, rather than an up-or-down vote on this amendment. At the end of the day, many of the same people who deny the necessity of this

amendment do not want to have a vote it on their record.

So, rather than take on the other side's arguments, they avoid the issues and challenge the motives of those who support this amendment. My friends on the other side of the aisle claim that this amendment is discriminatory. My colleague from Massachusetts, Senator KENNEDY, is a good man. But he is out of line to say as he has that a vote for this amendment is a vote for bigotry pure and simple. Over half of his colleagues will vote for cloture on this amendment. Does he really want to suggest that over half of the United States Senate is a crew of bigots?

This is Dr. Dean's subtle diagnosis. Democrats are committed to fighting this hateful, divisive amendment and to fighting similarly discriminatory ballot initiatives in states across the country. We strongly oppose any attempt to write discrimination into law—whether it be at the local or state levels or in the United States Constitution.

Never—not once in any State—have the people's popularly elected representatives decided to amend traditional marriage laws to include same-sex couples. When given the chance, they affirm traditional marriage. In Vermont, in California, and in Washington there is statutory language preserving the traditional definition. Are the legislators and citizens who supported these laws engaged in discrimination?

Let me give you another example.

When Nevada considered a State constitutional amendment to preserve traditional marriage, a vast majority of the State's citizens supported the measure. For Nevadans, preserving traditional marriage was not a wedge issue. Divisive issues do not garner 70 percent of the vote, as it did in 2000.

And so it was no surprise that the State's foremost public servant wholeheartedly supported this effort. Nevadans wanted to amend the State's constitution merely to affirm what has always been the law in Nevada and in the other States—that marriage is between one man and one woman.

That was then.

This is now.

Today, the Democratic Leader, who I count as a friend, has jumped on this bandwagon and said that this amendment would write discrimination into the Constitution.

So he supports unequivocally a State constitutional amendment to protect traditional marriage, but he claims that it is discrimination at the national level.

Let me get this straight.

Since the colonies were first settled, traditional marriage has been the norm in this country. It remains so today with the exception of Massachusetts. In recent years the American people have reasserted in State after State their strong desire to maintain traditional marriage laws. So the beliefs of most Americans are discriminatory?

Was it discrimination when members supported their State constitutional amendments to protect traditional marriage?

Was it discrimination when 85 members of this body, including 32 Democrats, voted for DOMA, the Defense of Marriage Act?

Was it discrimination when President Bill Clinton signed it?

Is it discrimination for our religious leaders to support traditional marriage?

The Catholic Church opposes same-sex marriage. Does the Pope believe in discrimination?

Seventeen Catholic Bishops and all eight American Cardinals support this amendment. Do they support discrimination? That is what some of my colleagues are suggesting.

Is every parish priest who refuses to marry a same-sex couple engaged in discrimination?

My church supports traditional marriage. So do many other religions that recognize the importance of marriage between a man and a woman.

I do not think that some of my colleagues opposing this amendment have considered the full ramifications of a Federal court decision commanding same-sex marriage on the States. What happens to the tax status of a church that our courts have determined to be engaged in discriminatory conduct that cuts against the public policy of the State? We have seen a preview with the experience of Catholic Charities in Massachusetts. For decades, this noble organization has provided adoption services for hard-to-place children. Yet the State recently presented this organization with the catch-22 of abandoning the church's traditional teaching on human sexuality or abandoning their religious commitment to works of mercy. This is not a choice our churches and religious citizens should face, but it is, I fear, a choice that they will have to make unless we act.

Our history as a nation is dotted with instances of some outlier, activist judges who ignored their institutional limitations in order to replace their own public policy judgments for those of the American people and their representatives. It is hardly a surprise that some elite judges might underestimate the political and social consequences of their efforts to alter the legal framework of marriage. After all, most of the people that they know may be in favor of such changes.

Well, they are about to find out that there are people outside of their small universe of liberal opinion. If a few renegade judges determine that traditional marriage is unconstitutional, our previous political debates over improper judicial decisions will pale by comparison.

The fact remains that some judges are eager to replace the opinions of the American people with their own. Since the cloture vote on the marriage amendment in the 108th Congress, State trial courts in Washington, New

York, California, and Maryland have struck down traditional marriage laws. The marriage laws of Connecticut have been challenged. The laws in Iowa have been challenged. A lawsuit has been filed in Federal court in Oklahoma that challenges not only a State constitutional amendment to preserve traditional marriage, but also the Federal Defense of Marriage Act. The Supreme Court of New Jersey seems poised to overturn the State's traditional marriage laws. A Federal court in Nebraska already struck down the State's constitutional amendment to protect traditional marriage. Just a few weeks ago, a judge in Georgia invalidated an amendment passed by the State's voters in 2004.

Those who oppose traditional marriage are not playing by the rules. They are not convincing their fellow citizens of the merits of their cause. They are not taking their arguments to the legislatures. Rather, they are taking the easy way out. Just convince a few elite judges that they are on the side of justice, and traditional marriage laws will go the way of the dinosaurs.

According to this amendment's opponents, when well-funded liberal activist groups ask judges to subvert the will of the people in every State, they are not playing politics. When they ask a bare majority of judges to overturn traditional marriage laws and declare them discriminatory, they are merely seeking justice. Yet when the people's elected representatives attempt to preserve traditional marriage in this country, we are playing politics.

We must be respectful of homosexual citizens. They are our fellow citizens. And they, no less than we, are endowed with the rights that Thomas Jefferson elaborated in the Declaration of Independence. But we also live in a democracy. And in democracies the people get to determine social policy, not judges. We should take this opportunity to restore the authority of the people over public policy and their own constitutions. We should remind these judges that the judiciary does not have a method of reasoning superior to the people or their elected representatives. Judges are good at deciding cases. They are good at applying law. But when it comes to moral reasoning, there is nothing in their legal training or in our laws that gives a few activist judges a right to make wholesale social change at the expense of the traditions of the American people.

I support this amendment. It is merely a congressional affirmation of what the vast majority of citizens in Utah and across the country already believe—marriage should be between one man and one woman.

We have a long way to go, but as even this amendment's opponents know, the fact that legislation will not pass is no reason to avoid a debate. Only by debating can you build a consensus. The American people have already arrived at a consensus on this

issue. They want to see traditional marriage remain the law of the land. I agree with that sentiment, and so I will be voting for cloture. I urge my colleagues to do the same.

I yield the floor.

Mr. ALLARD. Mr. President, I thank the Senator from Utah for his hard work on this issue. He is a dedicated Senator and an honorable one. We appreciate him taking the time to address the Senate.

Mr. President, I now ask that Senator THUNE be recognized.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I rise today to join the debate and express my strong support for the marriage protection amendment, of which I am a cosponsor. Amending the Constitution of the United States, as many have noted, is serious business and is something we should only undertake when we have a compelling rationale.

This amendment meets that high standard. Nothing is more fundamental, nothing is more important to the fabric of American society than the family. And that is what this debate is really all about.

Every Member of this body, every citizen of this Nation understands, or at least should understand, that the traditional family is the glue that binds our communities, the building block on which our Nation is constructed. It is something that I as a father of two daughters and a husband of 20 years understand and appreciate.

Yet today, this pillar of our society is under attack by some who are pursuing a narrow social agenda designed to destroy the definition of marriage that has existed since the birth of civilization. They are trying to convince us that what virtually all Americans have understood for more than two centuries as self evident, is wrong.

People ask why do we need to do this now? Why is it necessary? As has been noted, despite widespread public disapproval, activist judges are eroding the different State laws that define marriage as a sacred union between a man and a woman.

Currently nine States face lawsuits challenging their marriage laws. California, Maryland, New York, and Washington State trial courts have followed Massachusetts and found State marriage laws unconstitutional. The State supreme courts in New Jersey, Washington State, and New York could decide marriage cases this year.

The only sure way to prevent the courts from redefining marriage is to send to the States a Federal constitutional amendment that affirms marriage and prevents activist judges from hijacking that definition.

There have been those who have come to the floor and said that this really is not an issue the American people care about. Well, I beg to differ, if you look at what has happened in 19 States. Nineteen different States in this country have adopted constitu-

tional amendments, by public vote, defining marriage as a union between a man and a woman.

That very initiative, that very vote will be on the ballot this fall in South Dakota. I predict that we will get a very comfortable margin in favor of that.

In fact, if you look at the average in all of these places around the country, all of the States that have debated this issue and voted on it, the average vote has been 70 percent. Seventy percent of the American people have a different way of deciding what they care about and what is important and that is sometimes different than politicians here in Washington.

Some have said there are more important issues we need to deal with. However, the fact of the matter is if you look at the agenda we have been talking about for the past several weeks right here in the U.S. Senate we have been dealing with those issues.

Yesterday several Democrat Senators expressed their frustration about this debate taking place, a sentiment that has been repeated throughout the course of the day by more of their Democratic colleagues. They say there are more important issues that need to be debated during this time instead of marriage. Putting aside the fact that protecting traditional marriage and families is an important topic, they seem to forget what has been occurring on the Senate floor.

They say we need to focus on health care, an issue that is very important to me and my constituents in South Dakota. However, they forget that when this issue was brought to the floor just a few short weeks ago, they filibustered not one, not two, but three solutions to the health care crisis that faces our country; namely two types of medical liability reform and the Health Insurance Marketplace Modernization and Affordability Act.

They say we need to tackle the high price of gasoline that has affected this entire country, something that again affects profoundly the people I represent in South Dakota. However, they must forget the battle that has been occurring since the early 1990s to open up the Alaska National Wildlife Refuge, or ANWR, to oil exploration. It is something that has been debated consistently and repeatedly here and blocked from consideration. Once developed, ANWR could provide about one million barrels of oil each day for the next 30 years, a good first step toward solving this complicated problem. However, what we have run into is continued filibusters on what is a very commonsense step toward reducing our energy dependence.

They are right, there are many important issues facing Americans throughout this country. However, they are pointing their fingers at the wrong people. If they are so serious about solving America's problems, they should let the Senate vote on these issues, including the Marriage Protection Amendment.

One of the other issues which has been raised throughout the course of this debate is that we should not trivialize the Constitution with this amendment, that somehow marriage does not meet the threshold or the criteria of the liberal elites to warrant discussion as an amendment to the Constitution.

Well, there again, if you look at just the last 20 years here in the U.S. Senate, there have been a whole range of constitutional amendments that have been proposed by our colleagues on the other side. In fact, there are over 100 constitutional amendments that have been proposed right here in the U.S. Senate by our colleagues on the other side.

I was listening earlier to the debate on the floor when the Senator from Illinois, the Democrat whip, and the Senator from Nevada, the Democrat leader, were talking again about how we ought to be talking about other issues. It is interesting to note if you look at some of the constitutional amendments that have been introduced here in the U.S. Senate, both of those particular Members, as well as others of our colleagues on the Democrat side, have cosponsored many of those amendments.

They have cosponsored amendments dealing with physical desecration of the flag, of which I am also a cosponsor, as well as an amendment dealing with the regulation of contributions and expenditures intended to affect elections. There was an amendment proposed by the Senator from Illinois that would abolish the electoral college and provide for the direct popular election of the President and Vice President of the United States. There was a constitutional amendment offered by the Senator from Nevada that proposes repealing the 22nd amendment which establishes Presidential term limitations.

There are always constitutional amendments offered here in the U.S. Senate, and there are always those on both sides of the aisle who have varying levels of interest in those. But the reality is, that is what our Founders gave us. This is the mechanism they gave us whereby we can deal with some of these issues when there are constitutional questions.

What has prompted this debate in the U.S. Senate is the fact that States across this country, and in the Federal Government right here in Washington with the Defense of Marriage Act in 1996, have all taken action on the issue of marriage. Yet, we have courts across the country that are challenging the will of the people in each of those respective decisions and going their own way. They are trying to redefine marriage in a way that is contrary to what I believe is the tradition of this country, not only the tradition of this country, but since the beginning of time.

This is an important issue. It is an important debate. It is a debate that I believe we need to have in this country.

The other thing that has been said by our colleagues on the other side is, Why debate something if you know it is not going to have the votes for passage? Well, we may not get to 67 votes this time around and I was not here in 2004 when the Senator from Colorado brought this amendment to the floor and it was voted on previously, but I am told it got somewhere around 48 votes. I think we will get more votes for it this time.

But the point is, why would we not debate meaningful issues here in the U.S. Senate? That is what we are here for. If we just brought legislation to the floor of the U.S. Senate that we knew we had the votes to pass, we would not be debating very much.

We had a lot of amendments to the immigration bill that we debated in the last couple of weeks that failed by large margins. Yet, I did not see anybody here saying we should not debate them because we know we do not have the votes here to pass it.

The Senator from Illinois was talking about this earlier today saying: We should not be debating this because we know it is not going to pass. The last amendment he offered to the immigration bill, that was debated in the last couple of weeks in the U.S. Senate, got just 34 votes. Well, I think he has a right to debate that in the U.S. Senate, just like I think the people across this country who care passionately about the defense of marriage have the right to do so as well.

The other thing that gets stated a lot in this debate is that we should not in any way erode States rights, that somehow this amendment steps on States rights. That is wrong. Think about it. This is what our Founders gave us. This is the mechanism whereby the people of this country can amend the Constitution.

It requires the active participation of people all across the country, through their elected Representatives here in the U.S. Senate where it takes a two-thirds vote and the House of Representatives where it takes a two-thirds vote. And then it goes to the States. Three-fourths of the States, 38 States, would have to ratify this in order for it to become a part of our Constitution. That is about as much public participation as you could possibly ask for.

Not to mention the fact, as I indicated earlier, that we have already had votes all across the country. Nineteen States have put it on the ballot. Nineteen States, by an average of 70 percent, have affirmed traditional marriage as the union between a man and a woman.

It seems to me the States ultimately are going to decide this issue. If in fact this body and the U.S. House get the two-thirds votes that are necessary to send it to the States, 50 State legislatures are going to be debating this. Thirty-eight of them are going to have to decide if it is the right thing to do before it ultimately becomes part of the Constitution of the United States.

Very simply, the reason for this debate is that people in this country want to know that we care enough about the institution of marriage to step up and defend it against attacks from liberal activist judges, against courts that have decided that they want to redefine what we have known to be true about marriage for the past several hundred years. That is where this debate ought to be heard.

It ought to be heard by the people of the United States of America. It has been in legislatures around the country. It is being heard here in the U.S. Senate today. The people's voice is what we do. We give voice to the issues that the people in this country care about, and I happen to believe that this is one of those issues.

That is fundamentally what this debate is about. It is not about whether or not there are enough votes to pass it. It is not about whether or not this warrants the threshold of what is worthy for a debate on a constitutional amendment.

As I said earlier, our colleagues on the other side who are objecting to that have offered over 100 constitutional amendments over the past 20 years in this institution. It seems to me that the definition of marriage, that fundamental foundational building block of American society, is certainly worthy and warrants discussion and the time of the U.S. Senate.

So I commend the Senator from Colorado for bringing this to the floor. I look forward to voting in favor of it. I urge my colleagues to do the same, because I believe that is what the American people would have us do.

I yield the remainder of my time.

Mr. MCCAIN. Mr. President, I understand I am recognized for 15 minutes.

The PRESIDING OFFICER. The majority controls the time until 4 o'clock.

Mr. MCCAIN. Mr. President, I believe that the institution of marriage can serve its public purposes only when it is understood as being a union between one man and one woman. It is this understanding that offers public reinforcement to the vital and unique roles played by mothers and fathers in the raising of their children. It is this understanding that offers a foundation for principled objections to those who would pursue the imprudent agenda of dismantling an institution that has served us well, and replacing it with newer and more flexible understandings that are of questionable public value.

I also believe in the institution of republican government as described in the U.S. Constitution. This, too, is an institution that has served us well, founded upon the precept that the American people speak through their elected representatives, and these representatives remain at all times answerable and accountable to the people whom they serve. Today, on the question of marriage, we are told by advocates on both sides of the debate that

these two institutions, as they are currently understood, cannot be reconciled, and that one or the other must be changed. I do not agree, and thus I do not at this time support the proposed Marriage Protection Amendment.

The proposed amendment would establish in our Constitution a permanent resolution of a debate that is currently and properly being resolved in different ways, in 50 different States, by the people's elected representatives. Our system of federalism is not easily separable from our commitment to republican government, because it is driven by the idea that we are best governed when those who represent us live where we live, and share the values that we share. It is this understanding that has allowed us the strength, as a Nation, to time and again preserve our unity and confront our challenges in times of crisis, no matter how great our differences on issues that are the subject of heated public debate. The continued vitality of America's commitment to federalism and republican government offers a hopeful example to strife-torn areas of our world where conflicts are tragically settled with bullets rather than ballots. The constitutional value of federalism is doubly important in the area of family law, because power to legislate in this area has traditionally been reserved to the states, and because issues of family structure affect the fabric of the broader community, creating the opportunity for approaches that reflect the values of the States that form our Nation.

Most Americans believe, as do I, that the institution of marriage should be reserved for the union of a man and a woman. Wherever the question of same-sex marriage has been put to the test of public approval, it has been decisively rejected. Presently, 19 States protect in their constitutions traditional definitions of marriage. In 2004, amendments to State constitutions preserving the institution of marriage exclusively as the union of a man and woman were placed on the ballot in 13 States. All 13 passed by substantial margins. Thus far, seven States have a constitutional amendment on the ballot this year. There is little doubt they will all prevail. Proponents of an amendment to my State's constitution, which I support, are working hard to collect the required number of signatures to secure a place on the November ballot. If we succeed, I am certain Arizonans will adopt it overwhelmingly.

There can be little doubt that a sizeable majority of the American people, whatever their views on other questions involving the rights of homosexuals in our society, strongly support reserving the institution of marriage for the union of one man and one woman. That majority includes, I am confident, majorities in every State in the Union. It includes Americans of both political parties, whose voting

habits and general political philosophy range from conservative to moderate to liberal.

It is obvious that there is a broad consensus in this country in support of the traditional definition of marriage. And when the American people are so decided in a public debate, their elected representatives will defend that consensus. Forty-five States have either constitutional protections or statutes on the books defining marriage in traditional terms. In 1996, Congress passed and President Clinton signed into law the Defense of Marriage Act, which allows each State to deny within its boundaries the status of marriage to the union of a same-sex couple that may have been recognized in another State. To date, the Defense of Marriage Act has not been successfully challenged in Federal court.

The broad consensus in support of traditional marriage does not yet extend to support for the measure we are debating today, an amendment to the Federal Constitution defining marriage as the union between a man and a woman. I suspect that is because most Americans are not yet convinced that their elected representatives or the judiciary are likely to expand decisively the definition of marriage to include same-sex couples.

Obviously, the Massachusetts Supreme Court's ruling in 2003 effectively extended lawful marriage to same-sex couples even though it is apparent that a majority of Massachusetts residents do not support that change in the interpretation of the State's marriage laws. But there are political remedies to what, I believe, can be fairly criticized as judicial activism that ignored the will of the people and denied a State government its long established right to regulate marriage. In Massachusetts, more than 120,000 voters signed a petition to place on the ballot an amendment to the Commonwealth's constitution restoring the traditional definition of marriage. A constitutional convention to consider amending the Massachusetts constitution is scheduled to convene on July 12.

The Nebraska decision is under review by the U.S. Court of Appeals for the Eighth Circuit, which has already heard oral arguments in the case, and might issue a ruling as early as this summer. Most analysts, on both sides of the debate, believe the lower court's decision will be reversed, and the exclusive protections for traditional marriage that the people of Nebraska adopted in 2000 by a vote of 70 percent will be restored to their constitution. Nebraska's attorney General has not even felt it necessary to ask for a stay of the district court's decision pending the outcome of the appeal, which would almost certainly have been granted. I assume this is because Nebraska still has a defense of marriage law on the books, and there are no same-sex marriage cases pending in Nebraska courts or same-sex marriage legislation pending in the Nebraska Legislature.

I understand that the precipitous Massachusetts decision as well as the unlawful granting of marriage licenses to same-sex couples in a few localities outside Massachusetts, challenges to traditional marriage laws in other States, and the decision last year by the Federal district court in Nebraska that struck down an amendment to Nebraska's constitution restricting marriage to a man and a woman have added to the support for a Federal marriage amendment. While that support does not mirror the broad national consensus in support of traditional marriage, it is substantial and passionate. I understand that and I respect it, and I agree that marriage a uniquely important institution should be protected. But I do not agree that all the above circumstances have made it necessary to usurp from the States, by means of an amendment to Federal Constitution, their traditional role in regulating marriage. I'm reluctant to abandon the federalism that is part of the essence of conservative political thought in our country. And I am very wary of the unintended consequences that might follow from making an exception to our federalist principles for the sake of addressing a threat to the institution of marriage that may still, indeed, seems likely to be, defeated by means far less precedent setting than amending our Nation's Constitution.

Of course, while I disagree that the current constitutional structure provides insufficient mechanisms for ensuring that the public meaning of marriage is not tampered with by activist judges, it would be disingenuous to argue that those who support the proposed amendment have no grounds for their concern. In recent decades there have been too many occasions on which the Federal Courts, including the Supreme Court, have forgotten their proper role, and abandoned the virtues of federalism and republican government in favor of imposing their own policy preferences in the guise constitutional interpretation. Decisions such as *Roe v. Wade* continue to distort the democratic process in ways large and small to this very day. It is a telling commentary on those who seek to change the longstanding public meaning of marriage that in many instances they have chosen to pursue their agenda through the courts rather than taking their case to the people. Those who wish to engage the issue in good faith should reject out-of-hand attempts to read into the Constitution a right to same-sex marriage, because the Constitution says absolutely nothing about it, and because the longstanding traditions of American society have defined legal marriage as a union between one man and one woman. Indeed, yet another reason I am reluctant to support the proposed amendment at this point in time is that I do not accept the proposition that the current Constitution could ever reasonably be read to contain a supposed "right" that it plainly does not contain.

It is just not clear to me that threats to the institution of marriage that have arisen in recent times have become a permanent breach of State authorities' traditional role in regulating and defining marriage as the people of their States and their elected representatives see fit. My confidence that the public meaning of marriage will be decided in the context of federalism and republican government rather than by judicial fiat is strengthened by the recent confirmations of Chief Justice Roberts and Justice Alito, and I hope that future appointments to that State and Federal courts give us judges who share a similar understanding of the courts' proper role in our constitutional system.

However, if I am wrong, and the Nebraska decision were to be upheld on appeal; or were other challenges to State marriage laws made and upheld; or if majority sentiment and legislative remedies in affected States fail to overcome peremptory judicial intrusions into the political process of defining marriage; or if the Supreme Court were to reject the Defense of Marriage Act, then, and only then, would the problem justify Congress making the momentous decision to amend the most enduring and successful political compact in human history as the only recourse means to restore the public's right to define, according to the values and concerns of our communities, a critically important foundation of our society.

Let me pose a hypothetical situation to illustrate why we should be reluctant to impose a constitutional remedy to a problem that will probably be resolved in an ordinary, State by State political process, consistent with the respect for federalism we Republicans have long claimed as one of our virtues. Those of us who consider ourselves pro-life would welcome the Supreme Court's reversal of the *Roe v. Wade* decision that found a constitutional right to an abortion. The result of that reversal would be to return the regulation of abortion to the States, where the values of local communities would be influential. Now, further suppose that abortion rights advocates held majorities in both houses of Congress, and rather than argue State by State for liberal abortion laws, they decided to usurp the States' authority by means of a constitutional amendment protecting abortion. Wouldn't we who consider ourselves federalists loudly protest such a move? Wouldn't we all line up on the floor to quote Mr. Madison from Federalist Paper 45, that:

The powers reserved to the several states will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people, and the internal order, improvement and prosperity of the State.

Yes, we would, Mr. President, yes, we would.

I believe that in the "ordinary course of affairs," the American people's clear

preference to retain intact the institution of marriage, defined according to the values of our communities as the union of one man and one woman, will prevail, and that attempts to ignore the people's will, either by judicial fiat or by the occasional enterprising politician will, in due course, be overcome. I might be wrong, and I respect the concerns of Americans who believe current circumstances urgently require the constitutional protection of traditionally defined marriage. But I do not believe that recent developments yet pose a threat to marriage that cannot be overcome by means short of a constitutional amendment.

While I will vote in opposition to this amendment, I believe its advocates should be reassured that if in the future the public meaning of marriage is taken from the hands of the people and altered by judges who claim falsely to speak before all others for the people's constitutional ideals, then it will be the people, acting through their elected representatives in this Chamber, who will at that time have the final word. Until then, however, I will trust in the American people and the elected representatives closest to them to pass and enforce laws upholding the institution of marriage in accord with the values of their communities.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I rise today in support of S.J. Res. 1, the Marriage Protection Amendment to the U.S. Constitution. I support this amendment because traditional marriage is the bedrock institution of our society and its integrity must be maintained. The people and State legislatures around the country have approved laws and constitutional provisions to protect traditional marriage, but courts persist in reinterpreting their State constitutions to redefine the institution. I believe that, to prevent that kind of judicial activism from spreading, and to guarantee that people and the States can decide the issue, Congress should approve the marriage amendment and send it to the States for ratification.

In my brief remarks, I will address two basic questions. First, is marriage worth defending? And second, is a constitutional amendment necessary, or can this question be handled through the states?

On the first question, the answer should be clear to all. Traditional marriage—marriage between a man and a woman—is the fundamental institution of our society. That is primarily because marriage is the best environment for the protection and nurturing of children. Traditional families are where we hope that children will be born and raised and where we expect them to receive their values. If we want our Nation's children to do well, we need to do everything we can to ensure that children grow up with mothers and fathers. And the place where

that happens best is where mothers and fathers properly unite, in marriage. The state sanctions and encourages marriage not only because it wants to validate a lifelong personal relationship, but, more importantly, because we need a stable institution for child-rearing. That is why this issue is of such great importance.

We send a very important message to our children when we stand up for the institution of marriage. We tell them that marriage matters—that traditional family life is a thing to be honored, valued, and protected. We tell them that marriage is the best environment for the raising of children. We tell them that every child deserves a mother and a father. We point them to the ideal. We simply cannot strip marriage of its core—that it be the union of a man and a woman—and expect the institution to survive in its present form. The law of unintended consequences certainly applies here, as in all things. We cannot strip the institution of its essence and expect no adverse consequences.

That leads me to the second question: is a constitutional amendment necessary, or can the future of marriage be handled at the state level? I have heard some of my colleagues argue that this issue is best left to the States. They argue that family law is traditionally a State issue, and that the States are best equipped to manage family law matters. They say that Congress should do nothing, and just let each jurisdiction sort this out on its own.

First, just as a matter of history, some like to say that the definition of marriage is only a State issue, but history shows that the question is a bit more complicated. For example, when Congress admitted Utah as a State in 1896, it expressly required Utah to ban polygamy. In other words, the Federal Government imposed the traditional definition of marriage, because Members of Congress believed that the issue was of national importance. And in general, at least since the Civil War, we have moved increasingly towards a system in which the core questions about how to order our society are answered on a national level.

Second, we should focus on what "federalism" actually means. Many opponents of this constitutional amendment suggest that our federalist principles require us to sit on our hands and do nothing. Respectfully, I believe that the underlying principle that gives federalism its power is being misunderstood and misapplied. In fact, I think exactly the opposite is true: a genuine examination of the principles of federalism and States' rights should lead one to support this amendment.

The purpose of federalism is to empower the American people and to bolster democratic participation by ensuring that questions are decided at the local level, wherever possible.

We do not want the Federal Government deciding questions of purely local

importance, so we have limits on Federal power. These limitations are designed not so much to protect State governments, but to ensure that democracy works more efficiently and that policy is set by the American people through the officials that they know better and who are physically closer to them. Thus, federalism is not a dry question of allocating power among governments and politicians. It is about finding the best way to enhance the power of the people themselves.

A vote against this amendment does nothing to enhance the power of the American people. The only thing it does is enhance the power of the courts. To hear this talk of "States' rights" and "federalism," you might think that the American people are clamoring for same-sex marriage. In fact, just the opposite is true. Opinion polls consistently show nearly 60 percent opposition to same-sex marriage. Moreover, when citizens are given the opportunity to vote on State constitutional amendments, they support those amendments by an average of 70 percent.

No, as we all know, the danger here is not State legislatures, but judicial activism from the courts. The American people are not deciding this question; the courts are. The alternative to a Federal constitutional amendment is not one in which the people are left to operate their States as laboratories, as Justice Brandeis once suggested, but one in which the people are robbed of any ability to control this issue.

So let us deal with the facts on the ground, so to speak. This is not being "handled" by the States today. It is being handled by the courts. Even in the "reddest of the red" States such as Nebraska and Oklahoma, each of which adopted State constitutional amendments to protect traditional marriage, the activists have sued Federal court and said those State amendments are unconstitutional under Federal law. The citizens of these States are not being permitted to decide this question. "States rights" implies not courts, but the people, making these decisions.

Let's look at what is happening in the courts, with special attention to what has happened since we last debated this amendment.

First, since July 2004, State trial courts in Washington, New York, California, and Maryland all have struck down traditional marriage laws. Those cases are now on appeal. So, compare today versus 2 years ago. In July 2004, we were looking only at Massachusetts. Today, State courts in four other States have followed Massachusetts' lead.

Second, even more State court lawsuits have been filed. In Connecticut and Iowa, same-sex marriage advocates argue that each State's traditional marriage law is unconstitutional, and that the courts must redefine the institution to include same-sex couples.

Third, there has been increased action in Federal courts. In particular, a Federal district court in Nebraska struck down the State's constitutional amendment protecting traditional marriage. The case is on appeal to the Eighth Circuit, and a decision is likely sometime this summer. Regardless of how the case comes out, it shows the aggressiveness of the advocates for same-sex marriage. In Nebraska, 70 percent of voters adopted a constitutional amendment stating clearly that they wanted marriage to be preserved in its present, traditional form. Yet the ACLU still sued.

There has been other Federal court action as well. For example, activists filed a lawsuit in Federal court in Oklahoma challenging the State constitutional amendment enacted by voters, as well as Federal DOMA itself. DOMA also came under fire in California, where a Ninth Circuit panel dismissed a constitutional challenge on technical, standing grounds. Some good news came in Florida, where a Federal district court upheld DOMA's traditional definition of marriage for purposes of Federal law.

So, in summary, there are currently 9 States facing lawsuits challenging their marriage laws—California, Connecticut, Iowa, Maryland, Nebraska, New Jersey, New York, Oklahoma, and Washington. I should add that State supreme courts are expected to rule in New Jersey and Washington sometime this year.

I mention all these cases because they show the folly of relying on "federalism" or "States' rights" to resolve this national debate. The people are not deciding these lawsuits; judges are. If we do nothing—if we stand aside and let the States work it out, as some of my friends argue, then the American people will see the institution of marriage redefined against their will. It is happening now, and it is going to continue happening for as long as this body punts on this issue.

If we want to stand up for federalism—not to mention traditional marriage—then let's look at how a constitutional amendment works. The constitutional amendment process outlined in Article V of the Constitution is the most democratic, the most grass roots, and the most respectful process available for the establishment of national policy. A constitutional amendment requires the support of $\frac{2}{3}$ of both houses of Congress. Then it requires the support of the legislatures of $\frac{3}{4}$ of the States in the Union. Then, and only then, can the amendment become effective. This is a very high hurdle, but it guarantees that the American people have a full and complete opportunity to speak to the issue, that they can express their views to their Senators, their Congressmen, and their State legislators. It takes time. But in the end, if a constitutional amendment passes, we know that the American people want it.

In other words, Mr. President, the constitutional amendment process en-

hances federalism and States' rights. It ensures that there is a national consensus on this question, and it pushes the decisionmaking down to the most representative political leaders in our system, rather than allowing a few judges to amend the Constitution by overturning two centuries of our common understanding.

I have much more to say, especially regarding the meaning of this amendment and the political situation in the States, but time is short, so I will ask unanimous consent at the conclusion of my remarks to have printed excerpts from a policy paper that I issued as Chairman of the Senate Republican Policy Committee, "Why a Marriage Amendment is Still Necessary," which was published back on March 28.

To cite "federalism" or "States' rights" is to avoid the issue as it is actually playing out. Instead, we must decide whether this question belongs in the courts, where it is now, or whether it belongs in the legislatures and before the people. I submit that we should not stand in the way of the American people's right to speak on this question. I have faith that this constitutional amendment process will work—that the difficult social and cultural questions posed by same-sex marriage can be resolved satisfactorily through the democratic process of passing this constitutional amendment.

But I am even more sure that, if we fail to send this amendment to the people, and if the courts continue on their current path, our Nation will face decades of division that will make current frustrations with judicial activism seem quaint in comparison. If we refuse to act, the big loser will be not only traditional marriage, but the people's respect for the judicial system and for the rule of law itself. Such a breakdown would be disastrous, but it is avoidable. It is avoidable if Congress votes "yes" and sends this amendment to the States for ratification.

Mr. President, again, it should go without saying that traditional marriage as we understand it between men and women is a fundamental institution of our society and that we should do everything we can to ensure its preservation. The reason that is so is primarily because marriage is the best environment for the protection and the nurturing of children. We send a very important message to our children when we stand up for this institution. We tell them that marriage matters, that traditional family life is a thing to be honored and valued and protected. We tell them that marriage is the best environment for raising of children, that every child deserves a mother and a father. We point them to this ideal. We simply cannot strip marriage of its core, that it be the union of a man and a woman, and expect the institution to survive in its current form. The law of unintended consequences certainly applies here as in all things. We can't strip the institution of its essence and expect no adverse consequences.

That brings us to the second core question: Is a Federal constitutional amendment necessary to preserve this institution? I have come to the conclusion that it is. The question is whether this matter can be and is properly being handled at the State level, as some of our colleagues have contended. It is being handled at the State level to be sure, but the question is whether it is being handled by the people or by their elected representatives or whether in effect the Constitution is being rewritten by the courts, whether a couple of centuries of tradition about a common understanding of what traditional marriage meant is being eroded by court decisions rather than the will of the people.

Opinion polls consistently show nearly 60 percent opposition to same-sex marriage, and when citizens are given the opportunity to vote on State constitutional amendments, they approve them by an average of about 70 percent. So the danger here is not State legislatures but judicial activism from the courts. The American people are not deciding this question; the courts are. That is why the notion that we need to preserve federalism or States rights is, in my view, misplaced.

The alternative to a Federal constitutional amendment is not one in which the people are left to operate their States as laboratories, as Justice Brandeis once suggested, but one in which the people are robbed of any ability to control the issue because it is being resolved in the courts. Even in the reddest of the red States, such as Nebraska and Oklahoma, each of which adopted State constitutional amendments to protect traditional marriage, the activists have sued in Federal court and said that those amendments are unconstitutional under Federal law. So the citizens of these States are not being permitted to decide the question. States rights implies not the courts but the people making the decisions. That will not be what happens if these constitutional provisions are thrown out by the courts.

Look at what happened in just the last couple of years here, since we last debated the amendment. In 2004, State trial courts in Washington, New York, California, and Maryland all struck down traditional marriage laws. Those cases are now on appeal. So compare today versus 2 years ago. In July 2004, we were looking only at Massachusetts. Today, State courts in four other States have followed Massachusetts' lead. So the concern about the courts intruding into this area is not a hypothetical future concern but a reality today.

Even more State court lawsuits have been filed—for example, in Connecticut and Iowa. In addition to that, there is increased action in Federal courts. In particular, the Federal district court in Nebraska struck down a State's constitutional amendment protecting traditional marriage, as I mentioned a moment ago. That case is on appeal to the Eighth Circuit.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KYL. Mr. President, would I be out of order if I asked for unanimous consent for 1 more minute to conclude my remarks?

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

Mr. KYL. In summary, to summarize these cases, there are currently nine States facing lawsuits challenging their marriage laws—California, Connecticut, Iowa, Maryland, Nebraska, New Jersey, New York, Oklahoma, and Washington—and the State supreme courts are expected to rule in New Jersey and Washington sometime this year.

So the bottom line is this: The people are not deciding the Constitution, the judges are. If we do not do anything, if we stand aside and let the States work it out, as some of my friends have suggested, then the American people are likely to see the institution of marriage redefined against their will, and it will be much more difficult to adopt a constitutional amendment after these rulings are in place than it is to do so before they are in place.

Mr. President, I ask unanimous consent to have printed at the conclusion of my remarks excerpts from a policy paper that was issued by the Senate Republican Policy Committee.

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

The following are excerpts from a policy paper titled "Why a Marriage Amendment is Necessary," released by the Senate Republican Policy Committee on March 28, 2006. Footnotes and citations are omitted.

SUMMARY OF PENDING LAWSUITS

As predicted at the time, the Massachusetts decision in Goodridge proved the catalyst for a flood of new lawsuits. As of March 2006, nine states face active lawsuits challenging their traditional marriage laws: California, Connecticut, Iowa, Maryland, Nebraska, New Jersey, New York, Oklahoma, and Washington. Those cases are summarized below:

STATUS OF PENDING LAWSUITS CHALLENGING STATE MARRIAGE LAWS

California: Direct challenge to state marriage laws. Plaintiffs seek redefinition of marriage to allow same-sex marriage. Filed in 2004. Plaintiffs won in trial court in April 2005. Appeal is now pending in state court of appeals in San Francisco. A complete timeline is unclear, but no final decision from state supreme court is expected until 2007 at the earliest.

Connecticut: Direct challenge to state marriage laws. Plaintiffs seek redefinition of marriage to allow same-sex marriage. Filed in 2004. Case is pending in state trial court in New Haven. A complete timeline is unclear, but no final decision from state supreme court is expected until 2007 at the earliest.

Iowa: Direct challenge to state marriage laws. Plaintiffs seek redefinition of marriage to allow same-sex marriage. Filed in 2005. Case is pending in state trial court. A complete timeline is unclear, but no final decision from state supreme court is expected until 2007 at the earliest.

Maryland: Direct challenge to state marriage laws. Plaintiffs seek redefinition of marriage to allow same-sex marriage. Filed in 2004. Plaintiffs won in trial court in Janu-

ary 2006, and state has said it will appeal. A complete time line is unclear, but no final decision from state supreme court is expected until 2007 at the earliest.

Nebraska: Federal constitutional challenge to state constitutional amendment protecting traditional marriage. Plaintiffs won in federal district court, and the state appealed to the federal appeals court. Oral arguments were heard in February 2006, and a decision is expected in the spring or summer of 2006.

New Jersey: Direct challenge to state marriage laws. Plaintiffs seek redefinition of marriage to allow same-sex marriage. Filed in 2002. The state successfully defended traditional marriage laws in trial and appeals court, and the case is now before the state supreme court. Oral arguments were heard in February 2006, and a decision is expected in the summer or fall 2006.

New York: Multiple direct challenges to state marriage laws. Plaintiffs seek redefinition of marriage to allow same-sex marriage. Filed in 2004. After conflicting results in lower state courts, the state's highest court is now reviewing the case. A decision is expected no sooner than late 2006.

Oklahoma: Federal constitutional challenge to state constitutional amendment protecting traditional marriage. Plaintiffs also challenge federal DOMA. Filed in 2004. Case is pending in federal district court. A motion to dismiss has been pending since January 2005, and a decision is expected in 2006.

Washington: Direct challenge to state marriage laws. Plaintiffs seek redefinition of marriage to allow same-sex marriage. Filed in 2004. Plaintiffs won in state trial court, and the cases are now on appeal to the state supreme court. Oral arguments were heard in March 2005, and a decision is expected in 2006.

Note that in four of those states facing current challenges—California, Maryland, New York, and Washington—state trial courts have already struck down marriage laws and found a right to same-sex marriage in state constitutional provisions dealing with equal protection and due process. Those decisions are stayed pending appeal. State courts in Hawaii, Alaska, and Oregon had previously done the same, but state constitutional amendments subsequently reversed those decisions.

THE INCREASE IN LEGAL CHALLENGES

These current lawsuits are part of a growing trend. Until recently, very few states had seen attacks on their marriage laws. As of 1992, lawsuits had been filed in Minnesota (1970), Kentucky (1973), Washington (1974), Colorado (1980), and Hawaii (1990). As the Hawaii case gained traction, activists filed new lawsuits in Alaska (1995), Vermont (1997), Massachusetts (2001), New Jersey (2002), Indiana (2002), Arizona (2003), and Nebraska (2003). Since the Massachusetts high court struck down traditional marriage laws in 2003, cases were filed in Alabama, California, Connecticut, Florida, Maryland, New York, North Carolina, Oklahoma, and West Virginia in 2004, and in Iowa in 2005. In many of these states, such as Florida, California, and New York, more than one lawsuit was filed. The number of states that have faced challenges to their marriage laws has more than quadrupled since the early 1990s.

THE COMMON THREAD IN THE LAWSUITS CHALLENGING TRADITIONAL MARRIAGE LAWS

These lawsuits are brought under a variety of state constitutions or, in the federal cases, they are based on the U.S. Constitution, but the cases' substance are very similar.

First, nearly all the lawsuits are brought by the same cadre of legal activists at the

American Civil Liberties Union, the Gay & Lesbian Advocates & Defenders, Lambda Legal Defense & Education Fund, and the Freedom to Marry coalition. This is a coordinated and well-funded national campaign.

Second, on substance, these advocates regularly argue that civil marriage is a fundamental right; that denying civil marriage to same-sex couples violates their right to equal treatment based on sex and sexual orientation; and that the state can offer no legitimate justification for not redefining marriage to include same-sex couples.

Third, the advocates frequently rely on the U.S. Supreme Court's decisions in *Lawrence v. Texas*, 539 U.S. 558 (2003) (holding that sodomy bans are unconstitutional) and *Romer v. Evans* 517 U.S. 620 (1996) (holding unconstitutional a Colorado state constitutional amendment barring enactment of laws aimed at benefiting homosexuals), as general support for the transformation of equal protection and due process jurisprudence to require same-sex marriage. Even those challenges that purportedly rely on state law also look to federal cases for support.

Finally, the advocates often rely on the Massachusetts decision in *Goodridge* as persuasive authority, along with the similar trial court opinions in Washington and New York. Thus, in our integrated legal system, court cases in one state affect litigation elsewhere; one cannot argue that what happens in Massachusetts has no extraterritorial impact.

CITIZENS ARE FIGHTING TO PROTECT STATE MARRIAGE LAWS

When the advocates began this effort in Hawaii in the early 1990s, only a few states had expressly defined marriage as between a man and a woman (although state common law typically assumed it). Moreover, no states had amended their constitutions to protect against state court judicial activism. After the Hawaii court attempted to redefine marriage, however, citizens became politically engaged to ensure that their states' laws were clear. After Americans saw just how far judges would go—striking down the basic definition of marriage, and calling for its “eradicate[ion]”—they stepped up their activity and began to enact constitutional amendments that would shield the marriage definition from the judges.

The only states without statutory protections for traditional marriage are Massachusetts, New Jersey, New Mexico, New York, and Rhode Island. Moreover, voters in at least seven states will consider state constitutional amendments in 2006, including Alabama, Idaho, South Carolina, South Dakota, Tennessee, Virginia, and Wisconsin. Other states with more cumbersome constitutional amendment processes, such as Indiana, are following their state-specific processes to ensure that their state constitutions are amended as soon as possible.

Not only have nearly all states enacted some form of protection for traditional marriage, but they have done so with supermajority support. In the 19 states that have considered state constitutional amendments, all have passed, and with an average support of 71.5 percent. It is worth noting that the support for constitutional protections for marriage laws was strong regardless of whether the elections occurred in conjunction with higher-turnout elections such as November 2004 or state primary or special elections (in Louisiana, Missouri, and Kansas).

FEDERAL DOMA IS INADEQUATE TO PROTECT TRADITIONAL MARRIAGE LAWS

Perhaps the most common misunderstanding about the same-sex marriage debate is the notion that the federal Defense of Marriage Act, Pub. L. 104-199, 100 Stat. 2419 (Sep-

tember 21, 1996) (“federal DOMA” or “DOMA”) is a sufficient guarantor of traditional marriage laws. It is not, nor was it designed as a comprehensive solution to judicial activism on the same-sex marriage question.

WHAT DOMA DOES AND DOES NOT DO

DOMA was a limited law passed to address two distinct issues—forced interstate recognition and the definition of marriage for the purposes of federal laws and regulations.

Interstate recognition: DOMA's primary purpose was to bolster state courts' pre-existing power to refuse recognition to out-of-state marriages that do not comply with the state's laws and public policy. DOMA did this by making clear that the Constitution's Full Faith & Credit clause should not be read to require interstate recognition of same-sex marriages. See 28 U.S.C. §1738C. However, it is crucial to understand that, as a matter of tradition and comity, states regularly recognize marriages that were solemnized in other states. It is also well established that a state court may refuse to recognize an out-of-state marriage if doing so would contravene local “public policy.” At least in the 45 states with laws defining marriage as man-woman, the public policy preferences should be clear, and state courts, therefore, should be constrained to refuse recognition of out-of-state same-sex marriages.

DOMA's effect on interstate recognition is, therefore, quite limited. It just addresses the situation in which a state court refuses to abide by its state public policy and relies on the Full Faith & Credit clause in recognizing an out-of-state, same-sex marriage. However, DOMA will not have any effect on a case in which an out-of-state, same-sex marriage is recognized because the judge believes that the equal protection or due process clauses require it. DOMA does not “prevent” any court from recognizing out-of-state marriages; it merely removes one of several rationales that a court could use in doing so.

Definition of marriage for purposes of federal law: DOMA had a second purpose: to define marriage for purposes of federal law. Section 2 of DOMA states that, for the purposes of federal statutes or any ruling, regulation, or interpretation of federal administrative action, “the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or wife.” See 1 U.S.C. 7. A well-known effect of this language is to ensure that only persons in traditional marriage can file income tax returns as married couples, but the reach is much broader. The General Accounting Office has found that, “as of December 31, 2003, our research identified a total of 1,138 federal statutory provisions classified to the United States Code in which marital status is a factor in determining or receiving benefits, rights, and privileges.”

THE CONSTITUTIONAL CHALLENGES TO DOMA

Both provisions of federal DOMA have been challenged in federal court. For example, activists have challenged the interstate recognition provision in a case pending before the U.S. Court of Appeals for the Ninth Circuit, although the district court held the plaintiff lacked standing to challenge that provision. The section defining marriage for federal purposes is being challenged in that same Ninth Circuit case, as well as in federal cases pending in Oklahoma and Washington state. In each case, the plaintiffs argue that the U.S. Constitution's equal protection and due process guarantees require the recognition of same-sex marriages, and that efforts to limit the interstate reach of same-sex marriage or to limit marriage to heterosexual unions for purposes of federal law are

unconstitutional. To date, the federal government has been successful in defending DOMA, for example, by prevailing in federal district court in Florida. Nevertheless, same-sex marriage advocates have made clear that they believe DOMA is unconstitutional and that they will continue to press their position in federal courts.

These lawsuits involving federal DOMA do not form the “core” of the campaign in the courts. Instead, same-sex marriage advocates are focusing on direct attacks on state marriage laws, both through state court challenges to statutory DOMAs, and through federal court challenges to state constitutional amendments. The key to the expansion of same-sex marriage in the courts is not striking down federal DOMA, but convincing courts at all levels that same-sex marriage is a fundamental right that cannot be denied.

WHAT HAPPENS IF CONGRESS DOES NOTHING?

Failing to act to protect traditional marriage laws by a constitutional amendment will, in the end, likely result in the judicial imposition of same-sex marriage on a nationwide basis. First, some state supreme courts undoubtedly will strike down state marriage laws. Second, cultural and legal confusion will develop over a period of years as the nation struggles unsuccessfully to deal with a patchwork, state-by-state approach. Third, federal courts will be forced to address fundamental questions of due process and equal protection that will emerge. And, as a result of certain liberal-leaning precedents, the final step could be a U.S. Supreme Court ruling that marriage laws be rewritten to require same-sex marriage in all states.

STEP NO. 1: STATE-BY-STATE FRAGMENTATION VIA JUDICIAL ACTIVISM

At present, legal activists are not asking the courts to impose same-sex marriage on a nationwide basis. Instead, they are targeting their efforts on particular states. As noted above, nine states face challenges to their marriage laws, and as one same-sex marriage advocate wrote earlier this month, it is highly likely that one or more of these state supreme courts will overturn traditional marriage laws. Evan Wolfson, one of the premier gay marriage advocates in the nation, recently told *The American Prospect* that the movement's strategy over the next several years is to have 10 states legalize same-sex marriage.

Thus, the near-term tactical goal of these activists is not national cohesion, but national fragmentation of marriage definitions. Same-sex marriage will be legal in some states, but illegal in neighboring states. The results will not necessarily be regional, either. For example, Washington and California courts may impose same-sex marriage on their states, but Oregon's citizens have already protected themselves for now by state constitutional amendment. A Maryland court has already struck down the states' laws, while Virginia will soon adopt a state constitutional amendment. Moreover, lawsuits are pending in Iowa, Nebraska, and Oklahoma, and more could spring up in the American heartland. Same-sex marriage, already a reality in Massachusetts, will crop up throughout the nation.

STEP NO. 2: LEGAL AND CULTURAL CONFUSION DEVELOPS DUE TO FRAGMENTATION

The state-by-state fragmentation of the nation serves the goals of same-sex marriage advocates because the result will be confusion and chaos that cannot long endure.

First, marriage is a fundamental aspect of American culture. The nation has a variety

of regional and state-by-state cultural variations, but it also has core values and standards that apply on a national level. Marriage's core components—two people, husband and wife—should be common throughout the nation. This need for cohesion on the nature of marriage was imperative 100 years ago, when Congress required Arizona, New Mexico, Oklahoma, and Utah to include in their state constitutions express provisions banning polygamy “forever” before they could be admitted to the Union. It is even more so today, when the American experience is much more national than regional. As Evan Wolfson has written, “America is one country, not fifty separate kingdoms. If you're married, you're married.” Wolfson is correct, and he and his allies are counting on same-sex marriage in a few states (especially large and culturally influential states such as California, New York, and Massachusetts) to pave the way for the spread of the institution throughout the nation. Resistance to this growth will be strong, as the state-level DOMA activity shows. The inevitable result will be increased social and cultural division.

Second, the resulting cultural division will inevitably end up playing out in the courts, as same-sex marriage puts new stresses on the legal system. Homosexual couples who have marriage licenses have every right to move anywhere they want in the nation; it is a fundamental right protected under the Constitution. Many of these lawsuits will have unique fact patterns that cannot be anticipated, because same-sex couples will have many of the same day-to-day interactions with the world as heterosexual couples do. Some will get divorced when their marriage fails. They will execute and enforce wills when one dies. They will open businesses, engage in the economy as a household, and face occasional legal conflicts. Child custody battles will occur, as will cases involving run-of-the-mill torts and contract disputes. But as courts struggle to fit their legal relationships into existing state legal systems, the cases will take on a constitutional dimension.

Consider an example of a complicated case involving recognition of same-sex marriage that is already before the courts. Two Washington state women received a marriage license in Canada and later declared bankruptcy back in Washington. They filed their petition jointly, citing their Canadian marriage license. Because bankruptcy law is federal, and because DOMA directly addresses the definition of “spouse,” the bankruptcy court was required to rule on the constitutionality of DOMA as applied to this bankruptcy petition. In 2004, the bankruptcy court upheld DOMA's federal definition, and an appeal was taken to the federal district court, where it is pending today. The federal district court has stayed consideration of the case until the Washington Supreme Court rules on whether same-sex marriage should be mandated in that state, which, the petitioner argues, could impact how the bankruptcy petition should be treated.

This bankruptcy case is one example of the many ways in which same-sex “married” couples living in non-same-sex-marriage states can end up in the legal system. Although 45 states have an expressed policy of opposition to same-sex marriage, and the courts in those states should uphold that policy, new fact patterns will constantly arise. Matters involving everything from divorce to child custody to health care to probate will be more complicated and require case-by-case analyses in the courts. Inevitably, courts will reach different conclusions on how to integrate same-sex couples with marriage licenses into the legal and governmental structures of non-same-sex-marriage states. The rules will vary dramatically

across state lines, and reasonable questions of fundamental fairness will be raised by those couples.

STEP NO. 3: COURTS MUST STEP IN AND SET NATIONAL MARRIAGE POLICY

Such a fragmented legal system cannot survive indefinitely. Yet the solution to that confusion and chaos is not likely to be the state or federal legislatures, but the courts that are confronting these problems on a routine basis. Federal courts will become increasingly involved (as they already are), and splits in the federal courts will develop. The legal advocates will renew their challenges to DOMA's federal definition of marriage, and they will press courts to recognize out-of-state marriages—first for limited purposes, and then on a wholesale basis. (As discussed above, DOMA's interstate recognition provisions will not bar any court from forcing recognition of those marriages if that decision is based on other parts of the Constitution.)

As federal constitutional cases develop, it is likely that different circuit courts of appeals will resolve some of the core constitutional questions differently. Eventually, then, a question regarding the federal definition of marriage and/or interstate recognition will go to the Supreme Court. Which way will the Supreme Court rule? Nothing in the Constitution prohibits same-sex marriage, and, in our current constitutional system, the various applications of marriage law are typically left to the states. Consequently, it would be exceedingly unlikely for the Supreme Court actually to invalidate same-sex marriages. On the other hand, it will have a duty to assist the lower courts in the management of the plethora of thorny legal problems that same-sex marriage will have created in a patchwork system. The Court will be under enormous pressure to craft a national solution. The problem for traditional marriage supporters is that the Supreme Court has expanded (or distorted, in some views) the Constitution's equal protection and due process clause enough that a majority would have precedents to stretch and manipulate if it were so inclined. Justice Scalia, in particular, has warned that the Supreme Court's decisions in *Lawrence v. Texas* and *Romer v. Evans* now give same-sex marriage advocates non-trivial arguments in favor of judicial imposition.

In summary, a patchwork of definitions is not likely to endure; to think that it will is little more than wishful thinking. If Congress leaves this question to the state courts, then the ultimate arbiter will be the Supreme Court. And over time, given the existing precedents and the threat that some Supreme Court Justices would twist the case law for social engineering purposes, it is unrealistic to rely on the high court to be a bulwark in defense of traditional marriage laws.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it's no surprise that the American people are frustrated with the Republican Senate these days. They deserve and want action on the enormous challenges we face as a Nation—the endless and costly war in Iraq, the many dangers to our national security, skyrocketing gas prices, soaring health care costs, the upcoming hurricane season. How we can have safer schools and better care for our children, and so many other urgent issues. But instead of dealing with these real priorities, the Senate Republican leadership is asking us to spend

time writing bigotry into the Constitution.

Why aren't we taking up the defense authorization bill, which is so vital to our national security? It provides the authorization for the salaries for our troops in the field, including a 2.2 percent pay raise. It provides urgently needed equipment for our troops to carry out their missions in Humvees with safer body armor. It authorizes the food and supplies our troops need in Iraq and Afghanistan. It contains funds to care for those who are injured or wounded, or who may be suffering from posttraumatic stress disorder when they come home. But the Republican leadership of the Senate has told us that supporting our troops has to wait.

Let's be clear about what this debate is really about. It is a blatant effort to deny some members of our society the right to receive the same benefits and protections that married couples now have. Like this Senate's intrusion into the Terry Schiavo case, it is a cynical attempt to score political points by overriding state courts and intruding into individuals' private lives and most personal decisions. It's the politics of prejudice and division at its worst.

Make no mistake—a vote in support of this amendment has nothing to do with the “protection of marriage.” A vote for it is a vote against civil unions, against domestic partnerships, and against all other efforts by States to treat gays and lesbians fairly under the law. It's a vote to impose discrimination on all 50 States, and to deny them their right to write and interpret their own State constitutions and State laws. It's a vote to deny States the right to define what marriage equality means.

Marriage is a solemn commitment to plan a future together, to share in life's celebrations, to be there as a source of comfort to ease life's burdens and pains. This impacts real families with real-life struggles. When the citizens of a State have decided to recognize those families—through their State constitution or State laws—the Senate has no business undermining their personal, private decisions.

Some even claim that our recent action in Massachusetts is a threat to the rest of the Nation. Over 8,000 couples have celebrated their commitment to each other since our Supreme Judicial Court ruled that the State constitution requires marriage equality.

In ruling to allow same-sex marriage, our State's Supreme Judicial Court was interpreting the Massachusetts constitution, not the U.S. Constitution. The court ruled that our State's constitution forbids the creation of second-class citizens. It concluded that the State could not deny the protections, benefits and obligations of civil marriage to two individuals—regardless of gender—who wish to marry.

Far from being a right created—as our opponents like to say—by activist judges, the right of all our citizens to

have equal treatment under Massachusetts State laws was granted and approved by the people of Massachusetts when they voted on and adopted our State constitution. The people said that our State's constitution forbids the creation of second-class citizens, and our courts affirmed equality for all.

In Massachusetts, civil marriage brings all the benefits of a marriage license—and equal status under the marriage laws, which touch upon nearly every aspect of life and death. In addition to all the intangible benefits of marriage, a civil marriage is a contract—it grants valuable property rights—protection against creditors and the automatic entitlement to the property of their spouse's estate when he or she dies.

Under State laws in Massachusetts and many other States, marriage confers property rights. And the specific property rights vary from State to State. Some States have a community property regime. Others, like Massachusetts, do not.

But it has always been a bedrock principle of our form of government that the kind of State property rights flowing from a civil marriage contract is a matter of State law, not Federal law. And the laws governing the property rights of a married couple have always varied from State to State.

For example, a couple married in Louisiana will have all property owned in that State subject to the community property laws of that State. But if they own property in another State, that property is governed by the laws where the land is owned.

Now some of our colleagues want to federalize the rights flowing from civil marriage and overrule individual State laws. How odd that the same people who oppose Federal regulation in almost every other area now want a Federal constitutional amendment to eviscerate State contract and property laws, but only when they grant benefits to same-sex couples. That is discrimination, and it's wrong.

In Massachusetts, marriage—and the stability and security it brings to families—is alive and well. Indeed, Massachusetts has the lowest divorce rate in the Nation. We're having plenty of public debate and democratic process. The sky is not falling. Indeed, even the Boston Herald editorial page called this week's Senate debate what it really is "pandering on a hot-button issue."

I'm proud that Massachusetts continues to be a leader on marriage equality. Being part of a family is a basic right, and I look forward to the day when every State accepts this basic principle of fairness.

Obviously, those who disagree with Massachusetts law have a first amendment right to express their views. But there's no justification for undermining the separation of church and State in our society, or for writing discrimination into the U.S. Constitution.

Supporters of the amendment claim that religious freedom is somehow

under attack. It is—but the attack comes from this Federal marriage amendment—not from what's happening in the States. This amendment is an Anti-Marriage Amendment. It tells churches they cannot recognize a same-sex marriage, even though many churches are now doing so.

No church in Massachusetts is required to recognize any civil marriage. Indeed, my own Catholic Church does not recognize most postdivorce second marriages between a man and a woman, and that's their legal prerogative. By the same token, they are not required to recognize same-sex marriages. The law of each church is what determines the religious aspects of a sacramental marriage. But the law of the States is what determines the civil aspects and property rights flowing from a marriage contract.

We cannot—and should not—require any religion or any church to accept any marriage as sacramental. That's up to the particular religion. But it is wrong for our civil laws to deny any American the basic right to be part of a family, to have loved ones with whom to build a secure future and share life's joys and tears, and to be free from the stain of bigotry and discrimination.

According to the 2000 Census, same-sex couples live in virtually every county in the country. That's almost 600,000 households. Nearly one-quarter of these couples are raising children. That's an estimated 8 to 10 million children being raised in gay and lesbian partnered homes. As many as 14 million children in America have a gay or lesbian parent.

Despite these growing numbers, many here in the Senate want to deprive these men and women—these children—and their families—of the legal protections and benefits associated with marriage. These families stand up to private bigotry and prejudice in their ordinary activities—why would the Federal Government make their lives harder by writing discrimination into the Constitution? It's wrong for Congress to add another burden to these families already struggling to live their lives and take care of each other.

The General Accounting Office has identified 1,138 protections and benefits provided by the Federal Government on the basis of marital status. Many of these are laws relating to family and medical leave, social security benefits, and tax benefits. Gay and lesbian couples deserve the same rights as married couples, including the right to be treated fairly by the tax laws, to share insurance coverage, to visit loved ones in the hospital, and to have health benefits, family leave benefits, and the many other benefits that automatically flow from marriage.

Supporters of the Federal marriage amendment claim the need to stop activist judges. Our colleagues should recall the words of another activist court:

The freedom to marry has long been recognized as one of the most vital personal prop-

erty rights essential to the orderly pursuit of happiness.

The activist judges stating this fundamental belief were part of the Supreme Court's 1967 decision in the landmark case *Loving v. Virginia*, which held that marriage is a basic civil right, and that freedom to marry a person of another race may not be restricted by racial discrimination.

Now, nearly 40 years later, I urge the Senate not to turn back the clock on this progress, or start writing discrimination into our country's most cherished document. The framers never wanted it to be used for short-term political games—that's why it is so difficult to amend. As Chief Justice John Marshall said, the Constitution is "intended to endure for ages to come."

Two years ago, we defeated a disgraceful attempt to force this right wing agenda into the Constitution and we're prepared to do so again. There is too much at stake to let the politics of bigotry prevail. I urge the Senate to reject this so-called Federal marriage amendment, and get back immediately to the real business of the Nation. Save the pandering for rightwing supporters on the campaign trail.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I am honored to follow the great Senator from Massachusetts and join with him and others in opposing this proposed constitutional amendment. I do so because it is un-American, un-Christian, and unnecessary.

Let us be clear that this proposal is not about protecting marriage in America.

Marriage may need more people to practice it, but it does not need the Senate to protect it. The Founders of this great Nation exercised tremendous wisdom by designing a system in which Government would stay out of the private lives of its citizens and a system in which Government would stay out of the province of religion. This amendment would violate both.

This country was founded on the principle that all men and women are created equal, that they are endowed by their creator with certain unalienable rights. Among them are life, liberty, and the pursuit of happiness. To secure those rights, our Founders wrote a Constitution which guarantees every law-abiding American citizen the same equal rights and protections. Our country's Founders were not perfect. In fact, they were highly discriminatory. They initially denied those full and equal rights to women and to African Americans. This country's social progress has been highlighted by removing those constitutional discriminations based on gender or race or anything else.

Now, for the first time in our Nation's history, the proponents of this amendment would add discrimination to our Constitution. They would tell one group of people, a social minority, that equal rights and equal protections

do not apply to them, not only by the laws which exist today, Federal and State laws which ban gay marriages, not only by the social conventions which deny their recognition, but by an unprecedented amendment to the U.S. Constitution which targets gays and lesbians alone, which says that of all the social practices in this country, theirs alone are supposedly so abhorrent, theirs alone are supposedly such a threat to our social order that they must be singled out for this unique form of discrimination.

Unfortunately, the proponents of this constitutional amendment have it mixed up. It is the Constitution that needs to be protected—from them. It is the foundation of our democracy that needs to be saved—from them. The foundational principle of a democracy is its tolerance of individual differences. Even the most repressive totalitarian government in the world allows individual behaviors that it agrees with. The true test of a democracy is the government's allowance for differences. That doesn't mean that we agree with those differences. It doesn't mean that we like them. It doesn't mean that we would choose them for ourselves or wish them for our children. In fact, the opposite. We can disagree with them, dislike them, and reject them for ourselves and our children.

But if we are a democracy—if we are a democracy—we allow other citizens to be different from ourselves, to be unlike us. We grant them the liberty to pursue their own form of personal, private happiness so long as it does not interfere with our own. Which other adults, American adults are attracted to, want to live with or commit to is their business and their right, not the business of 100 politicians in the Senate. That is why this amendment would not only alter the U.S. Constitution, it would alter our democracy in a way that is destructive to both.

In addition to being un-American, this amendment is also Un-Christian. I hesitate to bring religion into this debate. I am highly skeptical of politicians who do so. Giving a Bible to a politician is akin to giving a blowtorch to a pyromaniac. However, I reread the New Testament in preparation for this debate. I cannot find a single instance in any of the four gospels in which my saviour Jesus Christ speaks a single word against same-sex marriages or even same-sex relationships. He intones 6 times against divorce and 12 times against adultery. Yet I am not aware of any proposed constitutional amendments to ban either of them, nor would I support them.

What I also know is that he preached for love and acceptance and against hatred and discrimination. He said the great commandment was to love God and the second was like unto it, to love thy neighbor as thyself, not just your family member, not just your friend, but to love your neighbor, whoever happens to be living beside you, as you would yourself.

There is no love in this constitutional amendment. There is discrimination, and underneath discrimination lies judgment and hatred. Jesus said also to beware of false prophets and charlatans, the fake good doers. He said the way to tell the difference is that the true believers practice love, while the false prophets preach hate. That is why this amendment is un-Christian.

It is also unnecessary. There is no rampaging threat to the institution of marriage, as the amendment's proponents pretend. There are no rabid activist judges raging unchecked across the legal landscape. They are figments of unchecked imaginations or clever contrivances by master public manipulators who have conjured up some nonexistent threat and now present themselves as the saviours of civilization.

We are spending 3 days on the floor of the Senate to indulge their political pandering. We haven't spent 3 days debating the war in Iraq during this entire session of Congress, nor Iran's development of nuclear weapons, nor this year the gasoline price crisis afflicting our citizens. No, the Senate's Republican leadership is avoiding the real threats to our country and focusing instead on the divisive, destructive nonexistent ones.

Existing Federal law, the 1996 Defense of Marriage Act, defines marriage nationwide as between a man and a woman and states that no State need recognize a same-sex marriage. My State of Minnesota is 1 of 45 States that have passed similar State restrictions. This proposed constitutional amendment is unnecessary overkill. It is predatory politics, preying upon a minority of American citizens who are of the most discriminated against in our society today. I don't understand why this Senate would want to exploit the prejudice and even hatred which still exists in our society against GLBT men and women. I am not a psychiatrist. I will leave it to them to explain why homophobia trumps racism, sexism, nationalism, and religious intolerance, but it does.

The discrimination against people because of their sexual orientations they were born with or acquired indelibly early in life is vicious, ugly, and cruel. It is the immoral and it should be illegal. And it should not be practiced in the Senate.

I sympathize with the many decent-minded, well-intentioned, and religiously devout Americans who struggle with their personal feelings toward homosexuality. Many have grown in understanding and acceptance. They want to do what is right, even if it doesn't feel entirely right to them. They and their feelings are being unnecessarily used in this charade. But I have no sympathy and I have no respect for the charlatans who are using them for their own self-serving political purposes, who are spreading prejudice and discrimination, who claim the moral high ground while they reach into their

emotional cesspools and hurl their slime at decent and innocent human beings who are trying to live their private lives as God created them and under the promises of this American democracy.

What we ought to do is leave marriage up to God. In the religious marriage services of my faith, the minister says that marriage is an institution created by God. Thus, we should leave the definition of marriage to those ordained by God, the leaders of the respective organized religions, and we should redefine the legal term for marriage to civil union or some other words and make that legal contract, with its rights, protections, and responsibilities, available equally to any two adult citizens as the equal protection clauses of our Constitution require.

That would be an American, a Christian, and a just resolution to this situation, one that elevates and enlightens us, one that continues the progress in our country toward acceptance and understanding, one that honors our common humanity.

Those are the reasons I urge my colleagues to oppose and defeat this cruel amendment.

I yield the floor and 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. HARKIN. 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. HARKIN. Mr. President, I have come to the floor today to add my voice to the rising chorus of people both here in the Senate and back in my home State of Iowa who are fed up with the misplaced priorities of the Republican leadership in this Congress. Our country faces mounting challenges: High energy prices, skyrocketing health care costs, tens of millions of Americans without health insurance, the cost of college tuition going through the roof, individuals with minimum wage jobs going nearly a decade without a raise. So how does the leadership here respond to these challenges? By squandering a week of the Senate's time debating a constitutional marriage amendment that has already been soundly rejected by the Senate and by debating repeal of the estate tax which would benefit only about 3 out of every 1,000 people in America at the most and would add \$1 trillion to the deficit in the coming years, so that the super-rich can get yet another tax break, a tax break that won't build one additional school, would not provide one new additional job, while working families get absolutely nothing.

Again, the great majority of American people are getting madder and madder about this. All you have to do is look at the polls of Congress. The

only thing lower than President Bush's polls is the standing of Congress. You wonder why? Look at what we are debating while all of these issues go by the wayside. What about the real needs and concerns of working Americans and their families.

Let me give one case in point. The majority leader cannot find time to bring H.R. 810 to the floor. It is pending at the desk. It was passed by a bipartisan majority in the House of Representatives—a bill to lift restrictions on embryonic stem cell research. Evidently, we don't have time. No time? Well, the majority party found plenty of time this week for these two dubious, devisive measures. But when it comes to the No. 1 research priority of the American people—embryonic stem cell research—the majority leader refuses to bring it to the floor; we don't have the time.

This is outrageous. No wonder the American people say Congress is not doing anything. We are not doing anything to address the real needs of our people.

Two weeks ago, on May 24, we reached the 1-year anniversary of the House passage of H.R. 810, the Stem Cell Research Enhancement Act. This bill is supported by the majority of Senators on a bipartisan basis. It enjoys the support of large majorities in every public opinion poll. Yet we cannot bring it up. Removing the strait-jacket on embryonic stem cell research is a matter of life and death for millions of Americans. As the Senate squanders yet another week, people we love are dying from Parkinson's and Lou Gehrig's disease and juvenile diabetes. People are unable to walk due to spinal cord injuries. These Americans are desperate for progress on embryonic stem cell research, which is being blocked by the majority leader's failure to allow H.R. 810 to come to the floor for debate and a vote. No time. Yet we have time to debate this constitutional amendment on marriage, which has been soundly rejected already by the Senate, and which everybody knows will be soundly rejected again, or we will have time to bring up for a vote the repeal of the estate tax, benefiting only the richest of the rich in our country. We have time for that, but we don't have time to bring up a bill to open the doors of medical research that hold such promise for people with incurable diseases.

There are also other urgent priorities being sidetracked. Forty-five million Americans have no health insurance. The majority leader says there is no time to debate this. There is no time to consider a measure that would make it possible for small companies to offer employees a health care plan similar to the one we have in Congress. Indeed, we Democrats were prevented from getting an up-or-down vote on this during the so-called Health Care Week last month.

In the Midwest, we have a bill that is very important not only for the Mid-

west but for the rest of the country, which is the Water Resources Development Act. We have 81 signatures on a letter, Republicans and Democrats, to the majority leader supporting this bill, asking that it be brought up. That is not only more than it takes to break a filibuster, if this was one—and I don't think there is one pending on it or to override a veto—that is more than two-thirds. Yet no action on it. I guess we don't have time.

The majority leader says we have time this week to consider a mammoth tax cut for the wealthiest Americans, but we don't have any time to consider a bill to raise the minimum wage for Americans at the bottom. The minimum wage has been stuck at the low level of \$5.15 for more than 9 years. During those 9 years, Members of this Senate have voted seven times to raise their salaries. Yet for those at the bottom, we don't have the time to bring a minimum wage increase bill to the floor of the Senate.

If we can keep this up, the approval of Congress will go into the negatives. At least it is in the positives now. It is maybe 10 or 12 percent. If that happens, it will be the first time in history that it will be in the negatives. I don't blame the American people for having that opinion of Congress.

Last month, we learned that some 26 million Americans—most veterans—had personal information stolen, including names, birth dates, Social Security numbers. This puts every one of these veterans in jeopardy of identity theft and fraud. Why are we not this week bringing to the floor the urgently needed Veterans Identity Protection Act? This bill would require the Department of Veterans Affairs to provide 1 year of credit monitoring to each affected person and one additional free credit report each year for the following 2 years. This bill would make a real difference for millions of veterans. Why is it being ignored? It seems to have bipartisan support. Why is it not being hotlined, as they say around here, for immediate consideration on the floor? We should bring it up this week. We should be debating that today. I guess we don't have time for that.

One other matter. I don't think we have a higher priority right now in terms of our national economy and our national well-being than ending our addiction to foreign oil. Senator LUGAR, a Republican, and I have a bill that would dramatically ramp up ethanol and biodiesel production. It would make these home-grown fuels available and usable at the pump and in communities all across the United States. Our national security is at stake. Why isn't this bill being brought to the floor on an expedited basis this week?

The answer, Mr. President, is that we are not addressing the real concerns and priorities of the American people because the majority leader—and I assume his party—are putting their own narrow special interest priorities first.

Apparently, it is more important to cater to a narrow vocal base of the Republican Party than to listen to the broad majority of the American people.

It boggles the mind that the Republicans have once again brought the so-called Federal marriage amendment to the floor. It will fail this week for the same reason it failed the last time. It is because deep down inside we all know it is wrong. It is just basically wrong.

Yesterday, the distinguished chairman of the Judiciary Committee, Senator SPECTER, said this amendment is "a solution in search of a problem." He is exactly right. For more than two centuries, our States have done an excellent job of making their own laws governing marriage without Federal interference. The last time the Senate debated this amendment, the cloture vote on the motion to proceed garnered only 48 votes—12 votes short of the 60 needed to invoke cloture, and far short of the 67 votes needed to pass a constitutional amendment. You have to have 67 votes. There isn't one person here who thinks they are even close to that. They cannot even get a majority. It is not surprising.

The amendment tramples on the authority of each State to regulate the civil laws of marriage within its borders—authority, by the way, I point out, that the Congress strengthened by passing the Defense of Marriage Act, which prevents any State from being forced or required to recognize a same-sex marriage in another State. Wait a minute. The Congress passed a law saying that we, the Federal Government, cannot require a State to recognize a contractual agreement in another State dealing with same-sex marriage. Well, guess what. No State has been forced to recognize a same-sex marriage or civil union joined in another State.

Yet now the Republicans would have us force upon each State a constitutional amendment that would take away the right of those States to enact their own contractual laws. It seems to me that what is happening is we are going down a road rapidly of more and more power to the President of the United States, less and less power to the Congress and the courts, more and more power to the Federal Government under a President.

The last time I looked, that could have been called something like a monarchy. Come to think of it, that is what we overthrew a couple hundred years ago. Most people tend to forget that when we declared our independence from Great Britain and fought the Revolutionary War and established our Constitution, England had a Parliament. But guess what. The King reigned supreme. It was King George at that time. So we recognized that. We recognized the inherent inability of the Parliament in England to go up against the King. So when we devised our Constitution, that is why we had the separation of powers—the courts, the Congress, and the President, all separate

and equal. Then we reserved to the States certain powers not enumerated in the Constitution. One of the powers is the right to set contractual laws. Now this Republican Congress wants to take that away. It is almost like we are going full circle back to the monarchy of Great Britain—a Congress that lays prone before the President—a President that is able to tap your phones, read your e-mails under some guise of a power that, since we are at war, he can do whatever he wants, taking away our civil rights and liberties. What does Congress do? Nothing. We sit back and let it go on. Now we are going to take another step to take away power from the States.

Well, again, this is something that is inherently wrong. It is wrong to take away this power from the States, take away the authority to set up their own contractual framework. As Senator KENNEDY said, I think eloquently, a few moments ago, it should be the right of every religion, under the freedom of religion, to decide the sacramental laws of marriage as defined by that religion. But when it comes to the contractual right, the civil right, that is determined by the State. That is why when you go to get married, you do two things—find a minister, a rabbi, a priest, whatever, but then you have to go to the courthouse of your State and get a license. Why? Because you are entering a contractual relationship. That is what this amendment would take away. Again, I would defend to the death the right of a religion to determine its own sacramental laws of what it determines a marriage to be, but also defend the right of a State to set up its own contractual laws within and under the umbrella of equal rights for all and nondiscrimination under the Constitution of the United States.

Senator KENNEDY referred to it, and I will refer to it again. It wasn't too long ago where people of different races could not get married in this country. States had laws that said a Black person could not marry a White American, or an Oriental could not marry a Black or a White. You could not marry someone of another race. It is not too long ago in my own lifetime, but that was true.

Discrimination is what it was. The courts struck it down. Would these same Republicans who keep coming here saying the courts should not be interfering in this say the courts should not have interfered there, too; that we should have left those discriminatory laws intact under the Constitution of the United States?

I keep hearing all this stuff about protecting the American family. I submit to my friends on the other side, if they really want to do that, how about raising the minimum wage? That would do more to protect the American family than anything they are talking about here.

How about addressing the skyrocketing health care costs? How about the high cost of gasoline? If they want

to defend the American family, how about giving access to health insurance to 45 million people a day who can't afford it? If they want to defend the American family, how about doing something about the rising cost of college tuition in this country and helping low and moderate families meet those costs of college education? In other words, if Majority Leader FRIST and his party want to protect the American family, why don't they deal with the real challenges confronting families instead of wasting the Senate's time on this cynical, trumped-up issue of same-sex marriage? Why can't we make bipartisan progress on issues such as providing access to health insurance and raising the minimum wage?

I close by making one point very clear: If the Democrats were in charge of the Senate, if we were setting the agenda, we would be charting a different course for our Nation. We would not be wasting the Senate's time on divisive, partisan constitutional amendments which seek to divide our people, pit families one against another, pit Americans one against another by dividing us. We would not be passing yet another mammoth tax cut for the wealthiest in our society called the estate tax, a tax we can't afford for people who don't need it.

If we could set the agenda, we would have the minimum wage issue out here. We would have a health care issue out here. We would have issues out here that provide for families getting a college education for their kids. We would have bills on the floor addressing the addiction to oil and moving us to more energy independence.

Every day it is becoming clearer and clearer to the American people that they face a choice: We can stay the current course—more divisiveness, more deficits, more debt, more drift—or a new direction for our country. If the majority party wants to continue to squander our time and taxpayers' money, as they are doing this week, well, that is their choice. But the American people get to choose, too. The American people are eager to cut out this divisiveness, to move on to the real agenda that confronts our country, to move in a very different direction, and I say it is time to do that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. How much time remains on our side?

The PRESIDING OFFICER. Twelve minutes.

Mrs. MURRAY. Mr. President, last week our country celebrated a very important event—Memorial Day. Every Member of the Senate went home to services where we heard about the sacrifices of men and women who served in conflicts throughout this Nation's history, most recently in Iraq and Afghanistan where we have now lost close to 2,500 of our Nation's best and brightest.

I listened to those speeches, and I heard about the sacrifices these men

and women have made. I heard the rhetoric about making sure we take care of their families, making sure we take care of those who are wounded when they come home, making sure we have the ability to care for those we ask to serve this country so honorably as we celebrated Memorial Day last week. I went throughout my State. I listened to people wanting to make sure we did not forget those people who served us. I came back to the Senate last night confident that we should be talking about those issues.

It is deeply disconcerting to me that we are not talking about the war in Iraq or Afghanistan, we are not talking about the sacrifices our soldiers have made, we are not talking about the tremendous responsibility we have as the Senate and Congress to make sure we have the funds for those men and women who have served us, both while they are overseas and when they come home. We are here instead on a completely different priority, and I have to ask the question of this Senate: Why are we spending time on political games when we have soldiers in harm's way who are serving us honorably around the world? Don't they deserve better than this? Why is the Senate bringing up divisive issues when we need right now more than ever to come together as a country and address the challenges that confront us? Maybe it is because those people who are in charge, those people who make a decision about what issues we discuss here, just have the wrong priorities. And I see the wrong priorities being debated in the Senate not just for this week but for apparently the coming weeks.

Last week, I traveled through communities in my home State of Washington. Everywhere I went, I heard a growing anger and frustration that American troops are being wounded and dying in Iraq, and my constituents want to know why. They want to know where we are going. They want to know what they are doing. They want to know why we are there. They want to know what will make us successful and how we can bring our troops home successfully. But here we are in Washington, DC, where the Bush administration doesn't have a plan they have outlined for success, and here we are in Congress not demanding answers.

My constituents are very frustrated, and they have good reason to be so. They, like all of us, are watching what is happening in Iraq on their TVs every night. They see personally what these deployments are doing to their communities at home, their friends, their neighbors, their coworkers, being called up not just once but twice, three times, to head to Iraq and come back. They see the terrible consequences for families who are left behind, and they see these veterans, when they go to get the treatment they need, being told they have to wait in line because we haven't adequately funded our Veterans' Administration.

And by the way, many of these same veterans just in the last week were told

that because of lack of oversight at the VA, 26.5 million of these veterans who served our country honorably have now lost their identities, and we are not dealing with that in the Senate right now? How are we going to make sure every one of these veterans gets the care they need, and how are we going to make sure now that 26.5 million veterans get the help they need as their identities have been stolen? That is going to cost money. It is not free. We have a responsibility to help every single one of them. They should not be treated like this as veterans in the United States today.

I see what these deployments are doing in our communities, just as my constituents do, and they see the challenges these veterans are facing when they come home and their families while they are deployed. They don't see a plan about how we are going forward in Iraq today. And what they importantly don't see is us in Congress on the Senate floor standing up and talking about what is going on, demanding answers from the Bush administration and the Pentagon.

We can only make the good decisions about how we go forward if we have a discussion in the Senate about what is happening on the ground, what the impacts are, what our choices are, how we can help both the Pentagon and the Bush administration and our constituents make a good decision about whether our troops should come home or whether they should stay or what is happening. We need to demand answers in the Senate from this administration and the Pentagon about what is happening on the ground. That is the discussion I wish we were having in the Senate today. That has meaning to every single one of my constituents. They want to know what we are doing, where we are going, how we are going to pay for it, and how we can be successful so we can know when our troops are coming home.

I have watched now for 3 years as our soldiers went to war in Iraq, and at every possible juncture in this war, the Bush administration has chosen the wrong path. When they were advised to build a stronger multinational coalition, they decided to go it alone. When the Army's Chief of Staff said it would take several hundred thousand troops to stabilize Iraq after the war, they ignored his advice and they fired him. When sectarian violence started boiling over and undermining the stability of Iraq and the safety of our troops, they pronounced the insurgency was in its last throes. Well, they were wrong.

We can't continue to watch what is happening in Iraq without answering questions in the Senate. For too long, we have watched decisions being made that have sent us in the wrong direction, and for too long, I say to my colleagues in the Senate, we have given them a pass on these monumental failures, and that has to change.

Families I represent want Congress to demand accountability, and they

want us to get to the bottom of this. But that is not what they are getting here. Instead, we see the Republican leadership playing politics with debates on gay marriage and flag burning. What are we not doing while we spend our time on this issue? We are not having hearings on Iraq. We are not having discussions about what is happening on the ground. We are not hearing from our generals so that we can make good decisions about when and how our troops can come home successfully. Instead, we are seeing political distractions that are simply meant to divide our country at a time when we ought to be together, Republicans and Democrats, having serious discussions about what we can do as leaders of this Nation to bring us success, if it is possible, in Iraq.

Back home, people want us to talk about Iraq. They want answers. But in the Senate, the Iraq war is the proverbial elephant in the room. It is right there, everyone can see it, but no one talks about it. No one talks about it in the Senate of America. No one is talking about the Iraq war. I will tell my colleagues, we are not going to get better results in Iraq if we ignore it in Congress.

In all the time I have served in the Senate, I believe this is the weakest oversight I have ever seen from a Congress during military conflict. We were not sent here to just rubberstamp this administration or any administration. I served under the Clinton administration during the war in Bosnia when we required generals to come up here almost on a daily basis, to obtain answers from them about what was happening on the ground, how we were proceeding forward, what we needed to do; and yes, at the time, there were calls to bring our troops home, no boots on the ground, all the different points we are hearing today, but we at least had generals in front of us so we could ask questions and go home and respond to our constituents and feel confident in whatever decision we made in how we were to move forward.

We were sent here as Senators to develop policy to help our country move forward. And in this time, this place, this war, I can't think of a more important time that as Republicans and Democrats we should sit down together and put our cards on the table and say: How should we move forward and how can we do it safely and how can we do it effectively? Yet here we are in the Senate talking about gay marriage and flag burning. We are not talking about a conflict that has consumed our Nation, that has sent our youngest, best, and brightest to a war where we have almost 2,500 military families that have suffered the loss of a loved one, where we have thousands and thousands of young men and women who have lost limbs, have had head injuries, and are now being serviced in our veterans hospitals for years to come, and yet we haven't talked about how we are going to pay for that.

There is a huge disconnect between the families at home and what is happening on the Senate floor. There is no surprise they are frustrated and angry and demanding answers. They are surprised and shocked that we are talking about gay marriage and flag burning because the discussion they have at their dinner tables when they are home at night is what is happening in our world; how can we protect our children; how can we make sure our families are safe; how can we make sure our loved ones who are serving us overseas are protected while they are there; how can we make sure we win a war in Iraq, if that is possible; how can we make sure that those people we send to serve us overseas have the services they need when they come home.

I was shocked to see an article in the "Psychiatric News" just a few weeks ago that says our veterans are not getting the help they need for mental health care and substance abuse. I wish to quote Frances Murphy, M.D., Under Secretary for Health Policy Coordination at our Department of Veterans Affairs, who said that the growing number of veterans seeking mental health care has put emphasis on areas in which improvement is needed, and she noted that some VA clinics do not provide mental health or substance abuse care, or if they do—

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. MURRAY. Mr. President, I ask for 1 additional minute.

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

Mrs. MURRAY. She says, "waiting lists render that care virtually inaccessible."

Our soldiers who are serving in a 24/7 war in Iraq deserve to have mental health care when they come home. They are not getting it today, and the Senate is not dealing with that issue. I think we can do a lot better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I wanted to spend a few minutes here to respond to the allegations made on the other side of the aisle that the protection of marriage is not important enough for the U.S. Senate to take a day or two to debate and then to vote on a constitutional amendment. I really am astonished to hear our friends on the other side of the aisle take that position because, frankly, I think the American people disagree with them and agree that marriage is important. I think they agree that when it comes to social experimentation by our courts, by a handful of activist judges who think they know better than the American people what is good for us, that they want that kind of experimentation to stop unless, of course, it is authorized by a vote of we, the people, rather than imposed upon us from on high by judges. This kind of experimentation when it comes to living arrangements and now with the institution of

marriage are not without costs, and, most often, the individuals who pay the price for that kind of experimentation are America's children.

I just can't disagree more with our colleagues on the other side of the aisle who seem to think that the preservation of our society's most basic institution—the institution of marriage—isn't important enough for our time and it is not important enough to take the time to discuss this issue and talk about what the solution might be to preserve the power of we, the people, to determine the laws and policies that affect our lives, and certainly the next generation of our children. I think this time is important, this issue is important, and we will find out when we vote on this issue who it is that believes that the American people should make these sorts of decisions and not a handful of activist judges such as occurred in Massachusetts, and now with a decision out of the Federal court in Nebraska holding that State's constitutional provision that limits marriage to one man and one woman unconstitutional under the Federal Constitution.

I don't know who it was that woke up 200 years or more after the Constitution was written and decided that the Founding Fathers wrote into the Constitution discrimination when it comes to marriage between one man and one woman. Obviously this is an issue that we have not initiated, we haven't brought up, but this is a fight that has been brought to us, those of us who believe it is important to preserve traditional marriage.

Mr. President, I would ask if I might be notified after 15 minutes of our 30-minute allotment has been used.

THE PRESIDING OFFICER (Mr. ALLEN). The Chair will so advise.

Mr. CORNYN. Mr. President, I would also like to spend just a few minutes examining what our colleagues on the other side of the aisle have said. For example, this morning our Democratic leader has said that Nevada has the third highest gas prices in the whole country, and he says that taking care of gas prices is more important than preserving marriage between a man and a woman. But I would like to point out that it is because of obstruction on the other side of the aisle that we have been unable to address the importance of access to domestic production of oil and gas in this country. And, because of obstruction on the other side of the aisle, we have been unable to create new refinery capacity that would make more gasoline, increase the supply and necessarily then, under the economic laws, bring down the price. It has been because of the obstruction that we have seen on the other side of the aisle that we have been unable to address that issue. Again, another example of block and blame.

Then we are told that somehow we should be talking about solving the health care needs of the American people. It was just a few weeks ago when our colleagues on the other side of the

aisle denied sufficient votes to allow us to consider a small business comprehensive health plan brought up by the Senator from Wyoming, Mr. ENZI. If our friends on the other side of the aisle were serious about solving America's health care problems and providing greater access to health insurance, they wouldn't have voted against that bill just a few short weeks ago. Yet, now they want to change the subject, saying we shouldn't be talking about marriage; we should be talking about health care. The fact is they are the ones who blocked our ability to proceed on that important issue and to find a real solution to that problem. But again, it is an instance of block and blame.

Then the Democratic leader this morning said, we ought to be doing something about health care costs. We tried to bring up the issue of health care costs earlier as well, in a case where we have said there ought to be some reasonable limits on non-economic damages in medical liability cases. That has been tried in my State, the State of Texas, and we have seen medical liability insurance go down into the double-digit range. We have seen more doctors coming into communities where they have been afraid to practice, and we have seen greater access to health care as a result of those efforts. Yet when we tried to change that here in the U.S. Senate, again, we were blocked by our colleagues on the other side of the aisle and then blamed when we are debating about the preservation of the institution of marriage and not addressing medical costs by dealing with the medical liability crisis.

Of course, then they also claim that really they ought to be the ones to control the legislative agenda, and that is really what this is all about. But they mentioned the war in Iraq, the energy crisis, the price of gasoline, health care, and said that the priorities of the Republican leadership are misplaced when it comes to addressing America's real needs, but neglecting all the while in pointing out that they themselves are the ones who are the primary reasons why we have been unsuccessful in addressing some critical improvements and reforms in those areas.

Our colleagues on the other side of the aisle need to make up their minds. They are literally schizophrenic—of two minds—when it comes to what to do about our energy crisis in America. They blocked building new refineries; they held up an energy bill for 3 years; they blocked exploration for domestic production in the Arctic National Wildlife Refuge, which we know, given modern exploration and drilling techniques, can be done in an environmentally friendly sort of way; and they blocked the President's Clear Skies initiative, which is designed to cut down on emissions and protect the environment.

Rather than demagog the issue, rather than to try and pin blame on the

President or the Republican leadership, our colleagues on the other side of the aisle would be better served, and certainly the American people would be better served, by working with this side of the aisle in trying to find real solutions, particularly when it comes to our energy needs, to reduce America's dependence on foreign sources of energy and help reduce gas prices. If they are really concerned about energy costs, then they would have made it easier by working together with us to expand clean nuclear energy.

On the issue of the marriage amendment, the Democratic leader this morning said this is an issue that ought to be left to the States. Certainly many States, including my State, have passed a constitutional amendment protecting traditional marriage. The problem is some Federal courts, notably one in Nebraska most recently, held that very State solution is itself in violation of the Federal Constitution.

The Democratic leader is a distinguished lawyer in his own right. He understands that a Federal court which holds that the Federal Constitution violates the State Constitution, that the Federal decision preempts the State constitutional solution. So again, this is not an issue that we have gratuitously brought up; this is one that has been forced upon us. I think what our colleagues on the other side of the aisle would prefer is if we would just be quiet and gradually allow the Constitution of the United States to be amended, but not as it turns out by the American people by voting on a constitutional amendment, but rather by a handful of activist judges who have somehow taken it upon themselves to define what is good for us and in fact what is and is not unlawful discrimination when it comes to our traditional marriage laws.

We know what happens when the American people have a chance to vote on these issues. Overwhelmingly, they vote in favor of preserving traditional marriage because instinctively they know it is the best solution for our society and certainly in the best interests of our children. We have seen too many of our children suffer as a result of social experimentation, certainly by the courts, and we ought to make sure that we preserve the right for we, the people, to make those important decisions rather than allow them to be made by judges who would amend the Constitution themselves under the guise of interpreting the Constitution. How is it that someone can decide after 200 years or more that the U.S. Constitution or even a State constitution modeled after the U.S. Constitution would result in a decision that traditional marriage laws are somehow discrimination is really just beyond me.

As I said yesterday on this floor, it is almost surreal. It is almost as if we have been asked to voluntarily suspend our powers of disbelief. The American people know what we are talking about

is important. They know what we are talking about here in terms of preserving marriage and a better future for our children is fundamental to our way of life. It is not frivolous. It is not politics. It is absolutely essential that we do so. They try to raise red herrings like: Well, we ought to be talking about health care, or we ought to be talking about the energy crisis, or we ought to be talking about the medical liability crisis, when the truth is they blocked every opportunity we have had recently to try to do something about those issues. The truth is what they want to do is to try to score political points rather than solve the very real problems that confront our Nation.

Finally, let me just add that recently I know the Democratic leadership in the other House criticized—if you can believe this—criticized the performance of the economy. Are they really complaining that 75,000 new jobs last month, not to mention 33 consecutive months of job gains and more than 5.3 million new jobs created since August of 2003, is the wrong direction for this country? The fact is the economy is doing well. But we need to continue to try to make sure that America remains competitive in a global economy by making sure that we keep taxes as low as possible, and by making sure that we keep our regulatory environment one that can protect us but, at the same time, not kill good business opportunities and job creation in this country. We need to look at our litigation system and make sure that we are not imposing a litigation tax on the American consumer and making it harder for legitimate employers to create those jobs. We need to make sure that we continue to try to work together to solve the very real problems that confront our Nation.

I don't apologize for a minute in saying that I believe we should vote on a constitutional amendment to protect traditional marriage. I don't think it is a waste of time. I think we can spend a day or two talking about this issue and its impact on our children and on the next generation. I think that is as weighty an issue as we will ever consider here, because it may well determine the long-term direction of our society and the welfare certainly of the next generation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. Mr. President, I ask unanimous consent I be recognized for 5 minutes to speak on the issue of S.J. Res. 1.

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

Mr. MARTINEZ. Mr. President, I am pleased to follow the distinguished Senator from Texas in talking about this issue that is very important to the American people. I, like he, believe that it is a bit of a "dodge and weave" to suggest we should not be talking about this. It is much easier to talk about all the things that maybe we

ought to be talking about, things that we have talked about in the weeks past and will be talking about in weeks to come, but let's not talk about this one because it is too hard. It is easier to have a collateral way of looking at it by saying: Oh, gosh, we should not talk about this because frankly we would just as soon not debate or discuss the merits of what is before us.

S.J. Res. 1 is rather simple. Today is one of those days when we can actually read what it is we are debating. This is all we would add to the U.S. Constitution, this is all it would say, if this amendment to the Constitution were to be approved. It says:

Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

To suggest that is not an important issue for our Nation, to suggest that somehow that is some out-of-the-mainstream language, to suggest that is only from some sect or far extreme point of view—to so characterize what I believe is the mainstream of American thought is simply not to be dealing with this subject truthfully.

A number of States have already spoken on this matter through their elected officials, but activist judges have interpreted both the Federal Constitution and the State constitutions very broadly. They have done this in order to overturn the will of the people regarding same-sex marriage. That is the reason we have to act. The Constitution has been improperly interpreted to impose same-sex marriage on the people of the United States.

As the Senator from Texas said, the fact is, it is the action of judges that have precipitated the need for us to be discussing this issue in the Senate today. It is the activism of some judges, who have taken away the right of State constitutions to be amended to include this very simple language, that has brought us to this moment. The Constitution has been improperly interpreted to impose same-sex marriage on the people of the United States. It is proper for the people to continue to speak on this issue through their elected officials by amending the Constitution to ensure that the sanctity of marriage will be protected from these activist courts.

Marriage, as defined as this amendment would define it, as between a man and a woman, hardly needs to be suggested as the most basic institution of society throughout history. It is foundational to the structure of what we know leads to the successful family, to the raising of children. Our traditional and religious understanding of marriage is under attack by those who wish to redefine the meaning of marriage and family. That is what is at stake, whether in fact the traditional view of family and marriage will prevail or whether, through the acts of ju-

dicial activism, we will redefine it to something other than that.

They have sought to go to the courts to overturn properly enacted State laws or constitutional amendments defining marriage as between a man and a woman. Only through bypassing democratically elected legislatures and the rule of law can same-sex marriage advocates enact their vision of American society.

The only way to prevent marriage from being redefined by activist courts is to pass a constitutional amendment that clearly establishes the will of the people on this foundational issue for our society.

I also want to address the concerns expressed by some regarding federalism. It is true that in our Federal Republic, in our system, the regulation of marriage has traditionally been left to State governments. Based on this principle of federalism, the States have been free to enact family policies that have allowed experimentation and reflect the different values that Americans have in each of their respective States.

While federalism is a general principle that promotes liberty within our Republic, we also have the overriding fundamental principle of American Government that governments derive their just powers from the consent of the governed. An essential element of republican government is that those who are subject to law also determine the law by which they are governed.

The recent strain of judicial decisions and cases on the part of same-sex marriage proponents, however, not only threatens the institution of marriage but denies the people of the individual States the freedom to define their own basic legal and social institutions.

I believe this marriage amendment takes a measured and reasonable approach to the problem of courts redefining marriage. It prohibits same-sex marriage in the United States while preserving the concept of federalism by leaving to the States the authority to enact State laws regarding legal benefits to unmarried, including same-sex couples.

Our judiciary is respected throughout the world, and I believe that is because our judges for the most part have been above politics and have always been committed to the rule of law. When our courts enact their political will over the proper policy decisions of legislatures, such respect is in jeopardy. A judge's personal political views have absolutely no place in performing their judicial role in our constitutional structure. Rather, the Constitution, statutes and controlling prior decisions as applied to the facts of the case at hand are the sole basis for judicial determination.

Therefore, today I urge my colleagues to adopt this amendment and give control of the foundational institutions of marriage back to the people of our country where it rightfully belongs.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BROWNBACK. Mr. President, a couple of my colleagues have spoken in favor of the constitutional amendment that is up today. They have given eloquent statements. We have others who are coming.

What I wanted to do while we wait on additional Members who are coming over to the floor is cover a couple of points I believe have been touched upon, but I think they deserve emphasis. I appreciate my colleagues on the other side of the aisle raising a number of issues that they are saying we are not dealing with. I urge them to vote for cloture on these issues when they come up because we will bring these issues up—on the budget; the supplemental is in a conference; we will have an Energy bill that is going to be coming up. I hope they will vote for cloture to go to that Energy bill so we can actually get it up to vote on it on the floor.

I know a number of them are supportive of the Native Hawaiian issue and are complaining because these issues are not in the top 20 issues in the United States, of the people's concern. Yet they are not raising the Native Hawaiian issue which will come up this week as well. I urge them to vote against that if they think it is not a high-priority issue.

I do think there is some speaking out of both sides of the mouth when you raise all these issues we should be covering and then vote against cloture, preventing us from covering those issues, and then complain about a marriage amendment that they are saying doesn't rise to the level of interest in the United States.

I think it is of a high interest in the United States or you wouldn't have seen all these States that covered it.

There is another issue that has been covered some. I hope we can address that issue. It is the issue of religious freedom. If you do not define marriage as the union of a man and a woman, but define it to require that you have to recognize same-sex unions, that is the basis—one of the bases on which Catholic Charities was driven out of the adoption business in Boston. They were required by law to do something against the tenets of their faith. I hope that can be developed some a little later on.

My colleague from Missouri is here. He is one of the strong supporters of this amendment. I yield the floor to the Senator from Missouri, Senator TALENT.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I want to take a few moments today to speak in favor of the Marriage Protection Amendment. This is an important measure, and the people are entitled to see who in this body is for protecting traditional marriage and who is not, because nothing less than that is at stake.

Some courts in this country are engaged in a process by which they are going to force the people, whether they like it or not, to accept a fundamental change in the basic building block of our society. I think that is wrong; under our constitutional process the people shouldn't accept that and don't have to and that's why this amendment is here before us.

Marriage is our oldest social institution. It is older than our system of property. It is older than our system of justice. It certainly predates our political institutions and our Constitution. And marriage may be the most important of all these institutions because it represents the accumulated wisdom of literally hundreds of generations over thousands of years about how best to lay the foundation of a home in which we can raise and socialize our children.

Now it isn't always possible to raise children through marriage, and certainly single parents around this country do heroic jobs nurturing children in difficult circumstances. We should give them credit and certainly we should give them as much help as we can. One of the ways we can do that is by affirming the social standard in favor of traditional marriage, which helps create a climate within our culture of stability and order for our children.

The social scientists have figured this out too. As a result of decades of accumulated data, family scientists from the fields of sociology, psychology and economics, have concluded children and adults on average experience the highest level of overall well-being in the context of healthy marital relationships.

We know what happens when societies abandon the model of traditional marriage. The Scandinavian countries legalized same-sex marriage years ago, and the result is that fewer and fewer people in those countries get married at all, and more and more children are born out of wedlock. That is not a good thing for their children. In short, the minimum we can say is that the evidence is not even close to showing that we can feel comfortable making a fundamental change in how we define marriage so as to include same-sex marriage within the definition.

The other issue at stake is who should decide these questions. The first and most basic right which our people possess is the right to govern themselves.

The Framers thought that right was self-evident. It means that the only just government is the one that derives its powers from the consent of the governed. That means that every act of any governmental body has to be the

result of a process in which the people have, at some time, consented.

Despite this right, some judges have decided to attempt to change the definition of marriage without reference to the will of the people.

Right now, nine States face lawsuits challenging traditional marriage laws—California, Connecticut, Iowa, Maryland, Nebraska, New Jersey, New York, Oklahoma, and Washington. In four of those States—California, Maryland, New York, and Washington—trial courts have found a right to same-sex marriage in State constitutional provisions—in each case relying in part on the Massachusetts decision. State supreme courts are expected to decide appeals of those decisions in 2006 or 2007.

And in Nebraska, a Federal district court in 2005 found unconstitutional a State constitutional amendment passed by 70 percent of Nebraska voters.

In short, it is clear that there is a well organized and deliberate movement in this country to redefine marriage—to change our most fundamental social institution—without regard to the right of our people to govern themselves.

Unless we pass a constitutional amendment, we will allow the courts of this country to disenfranchise tens of millions of Americans on an issue that is of greater importance to them on a day-to-day basis because it involves the way in which their children and other people's children are going to be raised than most of the legislation we debate here.

If we cannot agree in this Senate on anything else, we should be able to agree on this: Everyone should have the right to advance their point of view in the legislative process on this issue; and we can trust the good sense of the American people to produce the right result in the end.

The only way we can do that is by passing a constitutional amendment. That is what this debate is about. That is why I will be supporting the amendment before the Senate.

I yield the floor.

Mr. BROWNBACK. How much time remains on our side?

The PRESIDING OFFICER. Fifteen seconds remains on the side of the Senator from Kansas.

Mr. BROWNBACK. Mr. President, I appreciate my colleague from Missouri putting this forward. We will have further debate this evening from 6 to 6:30, and hopefully some a little later on.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I rise today to oppose the Marriage Protection Amendment to the Constitution. It is my fundamental belief that

the Constitution is not a document that denies rights. As a matter of fact, it is a document that protects those rights once earned.

With all the problems in the world today, the Senate is spending valuable time debating a bill which we know does not have the votes for cloture, which is divisive and which I believe does not belong on the national agenda.

The fact is, all family law has historically been relegated to the States; that is, marriage, divorce, adoption, custody, all aspects of family law and domestic relations have been the province of the States. That is what the Supreme Court has said in case after case from *In Re Burrus* in 1890 to *Rose v. Rose* in 1982. In that 1982 case, the court affirmed the holding of *In Re Burrus* that:

[t]he whole subject of the domestic relations of husband and wife, parent and child, belongs to the laws of the states, and not to the laws of the United States.

Similarly, in *Sosna v. Illinois*, in 1975 the Supreme Court wrote:

Domestic relations [is] an area that has long been regarded as a virtually exclusive province of the States.

In 1982, then Associate Justice Rehnquist, dissenting in *Santosky v. Kramer*, wrote:

The area of domestic relations . . . has been left to the States from time immemorial, and not without good reason.

And just this past November, in a television interview, Justice Stephen Breyer stated very simply:

Family law is State law.

It is clear domestic relations have been the jurisdiction of States. That is where they should remain.

I deeply believe this Senate should not be involved in putting amendments in the Constitution dealing with any aspect of marriage, of divorce, of families, of adoption, of any of those areas. The States reign supreme.

Why is it when Republicans are all for reducing the Federal Government's impact on people's lives, until it comes to the stinging litmus test issues—from gay marriage or end of life—they suddenly want the Federal Government to intervene?

For the life of me, I don't understand why this keeps coming before this Senate. It is extraordinarily difficult to pass a constitutional amendment. We all know that. Both Houses have to pass it by a two-thirds vote, and then over a 7-year period it goes out to the States where it has to be ratified by three-quarters of the States. The last constitutional amendment that went on to be ratified by the States was the Equal Rights Amendment, a simple 25-word amendment that said:

Equal rights under the law shall not be abridged based on sex.

Guess what. They were not able to get the necessary three-quarters of the States over a 7-year period.

So I don't believe this constitutional amendment would be successful even if

passed out of this Senate. I have not seen one passed in 13 years. It is extraordinarily difficult to get one ratified.

Family law is, indeed, the purview of the States, so there is no need for a constitutional amendment. This proposed constitutional amendment strikes at the heart of States rights in the area of family law and, in doing so, it actually undermines our Constitution. Moreover, I believe Americans believe the States should deal with same-sex marriage as the States see fit. And so do I.

Americans are especially concerned about amending this Constitution if it means closing the door on civil unions.

Why do I say this? How do I know this? Mr. President, 53 percent of Americans polled recently would oppose a constitutional amendment that also bans civil unions and domestic partnerships such as we have established in California. Many legal experts believe this amendment would do just that. The language in the second sentence of the amendment is ambiguous. It is ambiguous, at best, stating that:

Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

Now, some on the other side have argued that the amendment would still allow for legal unions passed by State legislatures, not just those instituted by the courts. However, when similar amendments were passed in States such as Michigan, Ohio, and Utah, domestic violence law and health care plans for couples, both gay and straight, were taken away. So we know it has an effect.

I believe to put this on the Constitution, if it were to prevail, if it were to be ratified by three-quarters of the States, it is very likely all domestic partnerships and domestic unions of any civil kind would be wiped out, as well. That does not make any sense at all.

States are well able to handle the issue of marriage on their own without the heavy hand of the Federal Government intervening in people's private lives.

What is currently happening in States indicates to me they are, in fact, actively engaged on this issue. The numbers speak for themselves. To date, 45 States have acted to restrict marriage to only one man and one woman; 18 of those have done so by amending their State constitutions. So why are we doing this?

This year, seven more states are poised to join them when they hold statewide votes on a constitutional same-sex marriage ban: Alabama in June, and Idaho, South Carolina, South Dakota, Tennessee, Virginia and Wisconsin in November. In addition, at least nine other States may take up similar amendments in the not-so-distant future: Arizona, Colorado, Delaware, Illinois, Indiana, Massachusetts,

Minnesota, New Jersey, and Pennsylvania. In fact, only one State, Massachusetts, recognizes same-sex marriage. One State, that is it.

So why all the fuss? Why is the Senate devoting its time to this issue when one State has taken action? I say based on the laws of this land that is the prerogative of that State or any other State. So there is no need to be considering a Federal constitutional amendment, particularly when we have important global and national problems to address.

We have an enormous deficit in this country. We do not spend much time on it.

In Iraq, things are going from bad to worse. Just this morning we read about an unrelenting kidnapping campaign happening in the streets of Baghdad. Thousands of Iraqi citizens are being snatched from the streets, 56 just yesterday, all rounded up by gunmen dressed in Iraqi uniforms.

North Korea has announced it possesses nuclear weapons. Iran is trying to become a nuclear power. Stem cell research, passed by the House a year ago, still is not on the floor of the Senate.

Why, why, why, are we doing this now when we could be doing stem cell research, when we could possibly provide the hope for juvenile diabetes, for Alzheimer's victims, for cancer victims, for spinal cord severance victims?

As to appropriations, the Senate has not taken up and approved any of the 12 appropriations bills that it must complete by the end of the session, and it is already June.

I cannot understand why we are doing this. We have the defense authorization and intelligence authorization bills. These are critical bills at a time when our Nation continues to be fighting in Iraq, Afghanistan, and the global war of terror, and we have not passed these bills.

Gas prices. When I was in Los Angeles last week, it cost more than \$3.50 a gallon to fill up a tank of gas. We have not taken steps to deal with that.

There are dozens of critical issues, including the mandatory business of this Senate in 2 major authorization bills and 12 major appropriations bills that we have not addressed, and 45 States have taken action. Yet this Senate seems pressed to defend the Nation, to amend the Constitution, to provide something which is within the purview of the States and which the States are handling.

To me, it makes no sense other than this is an election year. It makes no sense other than throwing red meat to a certain constituency. It certainly is not what the Constitution of the United States is all about.

I hope we will vote no on cloture. I hope we will return to business that is important to the American people. I do not believe this issue merits the time of this Senate at this time.

Mr. LEAHY. Mr. President, as I listen to the debate over this constitutional amendment, I am struck by the

circular and contradictory arguments offered by some supporters of this measure. It is clear even to a casual listener that the arguments from some proponents of this effort to use the Constitution to restrict individual freedom for the first time ever actually make the case for why there is no necessity for it. They must acknowledge that the Federal Defense of Marriage Act remains on the books and has been upheld by every Federal court that has considered it, including the Ninth Circuit Court of Appeals. Their talking points proclaim that 45 States already passed legislation or contain provisions in their State constitutions that define marriage as a union between a man and a woman. They point out that 19 States have in the last 10 years passed referendums to amend their State constitutions and that decisive majorities approved a definition of marriage. These arguments beg the question as to why we are spending several days of a waning session on an amendment that is not only divisive but also unnecessary.

To propose a constitutional amendment, two-thirds of each House of Congress must "deem it necessary." That is the constitutional standard for proposing a constitutional amendment. How, in light of this record, could Senators who value individual liberty, respect the States, and understand the Constitution vote any way other than against proceeding to this measure?

The Constitution is not some all-purpose bulletin board on which to hang political posters or to post bumper stickers. Our Constitution is the foundation of our rights and freedoms. The Bill of Rights, the first 10 amendments to the Constitution, were adopted to ensure limits on the Government and to protect the liberties of Americans. Vermont did not and would not become a State until 1791, the year the Bill of Rights was ratified. The structure of the Constitution, with its separation of powers and checks and balances, was designed by the Founders to protect our rights.

Sadly, the Bush-Cheney administration, with the acquiescence of a Republican Congress, has done much to remove those protections to the detriment of the rights of all Americans. In this regard, I note the recent report of the CATO Institute entitled, "Power Surge: The Constitutional Record of George W. Bush." This report criticizes this administration for not upholding the text, history, and structure of the Constitution and recognizing the limits on Presidential power.

As congressional Republicans have returned time and again to use constitutional amendments as election year rallying cries to excite the passions of some voters, those in Congress who respect the Constitution and honor our oath of office to "support and defend the Constitution of the United States" are cast in the unpopular role of seeking to conserve the Constitution and constitutional principles in the face of demagogic proposals.

Several years ago a bipartisan group was formed to inject some reason into these debates. The Constitution Project has worked long and hard to develop guidelines for when constitutional amendments are appropriate. They have noted: "The Founders created a Constitution that is difficult to amend, thus insuring a stable constitutional structure. In *The Federalist* No. 47, James Madison highlighted this very point. He argued that the Constitution should only be altered on 'great and extraordinary occasions.'" Proponents have not shown how this proposal meets those sensible guidelines, nor could they.

Recently, the CATO Institute and the Center for American Progress jointly held a symposium lending further support to rejecting this proposed amendment for a variety of reasons from across a wide spectrum of opinion.

All this raises the obvious question why this is the Republican leadership's priority in the face of an unfinished agenda of legislative matters that deeply concern Americans, ranging from escalating gas prices and health care costs to the ongoing violence in Iraq to homeland security. While the news articles and editorials characterizing this effort as crassly political are too numerous to include in the RECORD, I do ask consent to include a few that are representative. I ask that copies of the USA Today editorial from June 1, 2006, the New York Times editorials of June 5 and June 1, 2006, and the Washington Post editorial of May 24, 2006, be printed in the RECORD.

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

[From USA Today, June 1, 2006]

JUST SAY "I DON'T"

Apparently, issues such as immigration, corruption, gas prices, the budget deficit, the war in Iraq and the prospect of Iran acquiring nuclear weapons aren't substantial enough to occupy members of Congress.

When senators return from their Memorial Day recess next week, their thoughts will turn to June weddings. They plan to spend their time on a bitter, divisive and unnecessary debate over a proposed constitutional amendment to ban gay marriage.

Even supporters of the Marriage Protection Amendment readily concede that the measure to ban same-sex marriage nationwide has virtually no chance of becoming part of the Constitution. (It would need approval from two-thirds of both chambers of Congress, plus ratification by three-fourths of the states.)

So why bother?

Well, Election Day is a few months off. Supporters hope the controversy will energize their base of social and religious conservatives opposed to same-sex marriage.

Their plan could well backfire. Polls show that Americans are evenly divided about the amendment. Religious activist groups are annoyed that President Bush, who supports the amendment, isn't lobbying hard enough for it.

At the same time, the 31 Republican sponsors risk alienating moderate and independent voters who are turned off by the pandering for a futile effort that will further divide the nation.

The gay-marriage issue exploded when Massachusetts' highest court ruled in November 2003 that same-sex couples have a right to marry. Since then, more than 7,300 gay couples there have done so. The commonwealth has survived.

But the public backlash elsewhere has been strong. Nineteen states have amended their constitutions to ban gay marriage. Most other states prohibit it as well.

The state activity makes the proposed constitutional amendment all the more unnecessary. It would take away the traditional authority of states to regulate marriage and impose a one-size-fits-all edict on a nation still grappling with the issue.

Most partisan drives to write social policy into our enduring Constitution have, fortunately, failed. The prohibition of alcohol was such a disaster that it was repealed 14 years later. The Framers purposely made it difficult to amend the Constitution so that intense passions of the day wouldn't lead to laws that might last forever.

Supporters of the amendment trumpet the need to protect the "sanctity" of marriage. But preserving the authority of states to decide how to handle same-sex unions—whether through marriage or some domestic partnership or civil union law that protects the basic financial, health and legal rights that heterosexual couples take for granted—doesn't affect anyone else's marriage. And the 1996 federal Defense of Marriage Act already says states may refuse to recognize same-sex marriages performed in other states.

The proposed amendment would squelch the important debate going on at the state level and poison political dialogue. It should be jilted and left at the altar.

[From the New York Times, June 5, 2006]

DIVIDE AND CONQUER THE VOTERS

President Bush devoted his Saturday radio speech to a cynical boost for a constitutional amendment banning gay marriage. It was depressing in the extreme to hear the chief executive trying to pretend, at this moment in American history, that this was a critical priority.

Mr. Bush's central point was that the nation is under siege from "activist judges" who are striking down anti-gay-marriage laws that conflict with their own state constitutions. That's their job, just as it is the job of state legislators to either fix the laws or change their constitutions.

If there's anything the country should have learned over the past five years, it is that Mr. Bush and his supporters have no problem with judicial decisions, no matter how cutting edge, that endorse their political positions. They trot out the "activist judge" threat only when they're worried about getting out their base on Election Day.

The aim of the president's radio address—which darkly warned that Massachusetts and San Francisco (nudge, nudge) are going to destroy marriage—is the same as the Republican leadership's plans to trot out one cultural hot button after another in the coming weeks. After gay marriage comes the push for a constitutional ban on flag burning, a solution in search of a problem if there ever was one.

All this effort to divert the nation's attention to issues that divide and distract would be bad enough if the country were not facing real, disastrous problems at home and abroad. But then, if that weren't the case, Mr. Bush probably wouldn't feel moved to stoop so low.

[From the New York Times, June 1, 2006]

ON THE LOW ROAD TO NOVEMBER

Republicans are trying to rally their far-right base for the fall elections with a mean-

spirited sideshow threatening to the Constitution: a ban on same-sex marriage.

The Senate Judiciary Committee has endorsed the amendment, which would write bigotry into the nation's charter, by a 10-to-8 vote along party lines, and the full Senate is expected to take it up soon. Since the measure's language covers not only marriage but the "legal incidents" of marriage, its approval could jeopardize civil unions, domestic partnerships and other legal protections that many state and local governments now provide for same-sex couples and their children.

No one, including the G.O.P. strategists urging it's fast-tracking, expects the amendment to get the two-thirds Congressional approval needed to send it to the states for consideration. Two years ago, when Republicans staged a Senate vote on the same dismal amendment just before the Democratic convention, it ran into unexpectedly broad opposition. Some conservatives correctly opposed grabbing power from the states by suddenly federalizing marriage law. Supporters of the amendment could muster only 48 votes, well shy of the 60 required to cut off debate and avoid a filibuster.

Plainly, the real purpose of this rerun is to provide red meat to social conservatives, and fodder for commercials aimed at senators who vote to block the atrocious amendment.

It is sad that Senator Arlen Specter, the Republican chairman of the Judiciary Committee, who personally opposes the measure, chose to lend his gavel and vote to speed it to the floor. He got angry when Senator Russell Feingold, the Wisconsin Democrat, objected in forceful terms to both the amendment and the politically motivated scheduling. Mr. Specter and the other members of his committee who approved the amendment have no reason to be angry—just ashamed.

[From the Washington Post, May 24, 2006]

RUNNING AGAINST GAYS; AS AN ELECTION APPROACHES, CAN A VOTE TO BAN SAME-SEX MARRIAGE BE FAR BEHIND?

The Senate Judiciary Committee last week churned out a transparent effort to energize the restive Republican electoral base by picking on gays and lesbians. It reported, on a 10 to 8 vote along party lines, a federal constitutional amendment stating that "Marriage in the United States shall consist only of the union of a man and a woman"; the amendment would prevent federal and state constitutions alike from being "construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman." Senate Republican leaders are determined to promptly bring up the resolution on the floor, though it has no chance of passage. Its purpose, at this stage anyway, is simply to make a statement—of solidarity with socially conservative voters, of hostility toward marriage equality for gays and lesbians, and of contempt for state governments that might choose to move toward a more inclusive conception of marriage.

Senators will indeed make an important statement with their votes on this amendment—just not about the "sanctity of marriage." The vote, rather, will tally each member's willingness to deform the U.S. Constitution.

On the merits, there is simply no case for an amendment that would write into the Constitution an express command to every state and federal official to discriminate against a class of people. Marriage has always been a state matter in the American system, and nothing about the advent of gay marriage in a single state should change that. Opponents of same-sex marriage outside of Massachusetts have no cause for com-

plaint. What goes on in that state doesn't concern them, and they have shown themselves perfectly capable of organizing in many other states to nip marriage rights for same-sex couples in the bud. What's more, federal law already guarantees that no state need recognize same-sex marriages performed in any other. So the only purpose of a federal amendment would be to prevent states that wish to move toward marriage equality from doing so. Even within Massachusetts, where opposition to same-sex marriage is hardly overwhelming, the experiment with it will not succeed if a majority of citizens over time believe strongly that the decision by the state's high court creating marriage equality should be overturned.

What exactly is the problem that requires upsetting 200 years of constitutional norms? The question answers itself.

Mr. LEAHY. Mr. President, when we began this debate on Monday afternoon I referred to the important discussion that occurred in Vermont several years ago. In that statement I referred to the extraordinary example set of Senator Robert Stafford. I will ask that the Rutland Herald editorial from November 2, 2000, entitled "Stafford's Gift," be printed in the RECORD. This editorial memorializes the bipartisan call for respect and tolerance to which Vermonters responded. Senator JEFFORDS and I were honored to join Senator Stafford in rejecting vitriolic attacks during Vermont's experience with this debate. The Rutland Herald's series of civil editorials that examined these issues during Vermont's debate earned the Pulitzer Prize for the newspaper and its editorial page editor, David Moats.

The fairness and equality that resulted from passage of Vermont's civil union law has not threatened the marriages of the Green Mountain State or any other State in this country. It has not led to the parade of horrors threatened by the proponents of this divisive constitutional amendment.

Recently, I was contacted by a number of physicians in Vermont who voiced their strong opposition to the constitutional amendment that we are debating. These pediatricians are concerned that the proposed amendment will deprive children "of the benefits of both parents being able to provide health insurance, take time off from work to care for their children, authorize medical care, or stay with their children in the hospital." I will ask that their letter be printed in the RECORD.

Hundreds of thousands of American children are being raised by committed same-sex couples. I am gravely concerned that the so-called Marriage Protection Amendment would prevent States from providing benefits and protections to these dedicated parents and their families.

I ask unanimous consent to include two recent editorials opposing the proposed amendment from the Brattleboro Reformer from May 24, 2006, and the Rutland Herald from June 6, 2006, in addition to the aforementioned materials.

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

[From the Rutland Herald, Nov. 2, 2000]

STAFFORD'S GIFT

Robert Stafford was never a politician who wore his heart on his sleeve. He served Vermont with distinction over five decades, beginning as Rutland County state's attorney, later becoming governor of Vermont and later U.S. senator.

He is now 87 years old, and he lives in Rutland Town. During his career he focused on getting the job done, and millions of Americans who are able to use Stafford loans to finance their higher education have Robert Stafford to thank.

So when Stafford came forward on Tuesday to speak about the climate of intolerance that has arisen during the present election campaign, it was because he was moved by a profound conviction. He was not alone. Sens. Patrick Leahy and James Jeffords and Rep. Bernard Sanders were with him to request a return to the atmosphere of respect that has traditionally characterized the state of Vermont.

Stafford described his marriage of many years to his wife, Helen, and of the love they have shared. "I believe that love is one of the great forces in our society and in the state of Vermont," he said. "And everyone in this country is better off living in a society based on love."

The civil union law has confronted many Vermonters with the reality that gay and lesbian couples also share love. That reality prompted a question from Stafford: "If a same-sex couple unites with true love," he said, "what is the harm in that? What is the harm?"

Conscientious people disagree on the moral questions surrounding homosexuality and civil unions. The point is not that everyone should agree; it is seldom the case that everyone will agree on any issue.

The important distinction is between those who disagree with civil unions and those who take their disagreement a step further, using offensive language, shouting down opponents, and employing tactics of character assassination like those being used in Chittenden County.

Disagreement must be respected. But when disagreement turns into denigration, it creates the atmosphere that Stafford, Leahy, Jeffords, and Sanders came to Rutland to deplore.

Stafford and Jeffords are the two senior Republican leaders in the state, and it is good that leading Republicans have chosen to speak up about the extremism that has tarred the debate over civil unions. If the Republicans intend to help heal the wounds caused by the bigotry of a few, they have to be willing to distance themselves from some of the attacks that are made in their name.

Jeffords had harsh words for the "tone of intolerance and hate" this year. And he spoke of the need for respect. "When individuals with narrow minds seek to vilify public servants in the name of religion, it's time to take a step back."

A flier distributed by a religious group in Chittenden County warned that because of the civil union law, Vermont would become "a San Francisco-like rural haven."

Leahy called such fears "vitriolic nonsense."

The issue inevitably comes back to Stafford's point, which asks us to look at the reality of human relationships. In homosexual relations, just as in heterosexual relations, there are respectful, loving relationships, and there are relationships that are less.

And as Stafford said, in simple, heartfelt language, when it comes to love, what is the harm?

PRO-FAMILY PEDIATRICIANS,
Burlington, Vermont, June 5, 2006.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.
Hon. JAMES M. JEFFORDS,
U.S. Senate,
Washington, DC.

DEAR SENATORS LEAHY AND JEFFORDS: As Vermont pediatricians dedicated to the care of infants, children, adolescents, and young adults, we strongly urge you to oppose amending the Constitution to forever deny gay and lesbian couples and their children the same protections available to other families. A discriminatory constitutional amendment would have a particularly severe impact on the health and security of the hundreds of thousands of children whose parents are same-sex couples.

On a daily basis, we care for sick children in the context of their families. Children deserve all the love, care, and emotional and financial security their families can provide. Any constitutional amendment that throws obstacles in the way of two parents being able to provide the full measure of security for their children that the law allows is clearly not in the best interest of children. The best result for children is the defeat of the Federal Marriage Amendment.

As demonstrated by census and other data, there are literally hundreds of thousands of children whose parents are gay or lesbian couples. According to the 2000 census, same-sex couples are raising children in at least 96 percent of all counties in the U.S. These children go to school, play in sports, sing in choirs, go to worship services, play at the beach, get hugs from their parents and grandparents—and get sick—just like children of opposite-sex couples or single parents. And when these children are sick, their parents come to doctor visits together, take time off from work to stay home with the sick child, worry about paying the medical bills, and if serious enough, stay at the hospital together with their child, take turns holding an oxygen mask or meeting with doctors and nurses.

Whether the problem is as medically simple as a bad cold or a broken finger or as serious as leukemia or a life-threatening heart condition, a child's illness or injury strains both the child and his or her parents. No parents who are already under the emotional stress of caring for their sick or injured child should also have to worry about whether the Constitution will deprive their child of the benefits of both parents being able to provide health insurance, take time off from work to care for their child, authorize medical care, or stay with their child in the hospital. Adding to the worries of already strained parents is simply wrong.

The American Academy of Pediatrics has found that "a considerable body of professional literature provides evidence that children with parents who are homosexual can have the same advantages and the same expectations for health, adjustment, and development as can children whose parents are heterosexual. When two adults participate in parenting a child, they and the child deserve the serenity that comes with legal recognition."

We urge you to find ways to make the lives of all children happier, healthier, and safer. There are lots of good ideas, and good legislation, to meet these goals. But the Federal Marriage Amendment will do the opposite. It will make the lives of children more difficult and make the assurance of the best health care a broken promise. We strongly urge you

to protect children by defeating the Federal Marriage Amendment.

Very truly yours,

Dr. Garrick Applebee, Attending Physician, Vermont Children's Hospital, Burlington, Vermont.

Dr. Wendy S. Davis, Vermont Children's Hospital at Fletcher Allen Health Care, Professor of Pediatrics, University of Vermont College of Medicine, Burlington, Vermont.

Dr. Jillian S. Geider, Vermont Children's Hospital, Clinical Instructor, Pediatrics, University of Vermont College of Medicine, Burlington, Vermont.

Dr. Joseph F. Hagan, Jr., Clinical Professor in Pediatrics, University of Vermont College of Medicine, Co-Chair Bright Futures Education Center and Steering Committee, American Academy of Pediatrics, Burlington, Vermont.

Dr. Barry W. Heath, Director Pediatric ICU, Vermont Children's Hospital, Associate Professor of Pediatrics, University of Vermont College of Medicine, Burlington, Vermont.

Dr. Jeremy Hertzog, Clinical Instructor in Pediatrics, University of Vermont College of Medicine, Burlington, Vermont.

Dr. Jenny Hoelter, Resident, Vermont Children's Hospital, Burlington, Vermont.

Dr. Elizabeth Hunt, Pediatrics Resident, Vermont Children's Hospital, Burlington, Vermont.

Dr. Karen S. Leonard, Attending Physician, University of Vermont, Burlington, Vermont.

Dr. Brett McAninch, Vermont Children's Hospital, Burlington, Vermont.

Dr. Meredith Monahan, Pediatric Resident, University of Vermont, Burlington, Vermont.

Dr. Bradford D. Stephens, Clinical Instructor, Vermont Children's Hospital, Burlington, Vermont.

Dr. Alicia J. Veit, Vermont Children's Hospital, Clinical Instructor, Department of Pediatrics, University of Vermont College of Medicine, Burlington, Vermont.

Dr. Anna Ward, Pediatric Resident, Vermont Children's Hospital, Burlington, Vermont.

Dr. Richard C. Wasserman, Professor of Pediatrics, University of Vermont College of Medicine, Burlington, Vermont.

Dr. Paul James Zimakas, Pediatric Endocrinologist, Vermont Children's Hospital, Burlington, Vermont.

[From the Brattleboro Reformer, May 20, 2006]

AGENDA OF DIVISIVENESS

It's very obvious why the Senate Judiciary Committee voted Thursday to revive an effort to enact a constitutional ban on same-sex marriage.

Republicans are getting their arms vigorously twisted by the religious right. They have begun threatening the Republicans that they will stay home in November if progress is not made on banning abortion, same-sex marriage and flag burning.

A poll conducted in March by four groups representing evangelical Christians found that 63 percent of so-called "values voters"—the evangelicals who oppose abortion and same-sex marriage—believe that, in the words of the poll, "Congress has not kept its promises to act on a pro-family agenda."

So, between now and November, you can expect to see these "values" issues trotted out by Republicans in Congress to convince the religious right they are still on their side.

It's not like the GOP has anything else to run on. They can't run on national security, not with Iraq in a bloody civil war. They can't run on ethics, not with the growing list

of indictments filed against GOP members of Congress. They can't run on the economy, not with \$3 a gallon gasoline, rising interest rates and stagnant wage growth.

No, all they have left is the hope that voter turnout will be low and the most extreme members of their constituency will show up to vote.

Mid-term elections are usually decided by turnout, and usually only the most motivated voters from each party show up on Election Day. While pandering to religious extremists may seem like a smart short-term strategy, in the long term, it alienates the rest of the population.

Given the bigger issues facing this nation—out-of-control energy and health care costs, the criminally slow response to the Gulf Coast's plight after Katrina, the lack of an exit strategy from Iraq, the threat of another war in Iran and a president who shows no respect for the rule of law—arguing about flag burning and gay marriage is ridiculous.

But that's the legislative agenda that the Republicans are working on. Even though the gay marriage ban has no chance of receiving the required two-thirds majority which will move the proposed amendment to the states to ratify, the goal is to get both houses to vote on it next month. Likewise for flag burning and more restrictions on abortions.

In short, the GOP would rather devote its energies to pointless and divisive legislation than address the real problems facing the nation.

We do not think this is not going to work this November.

As weapons, the powers of fear and divisiveness, the two biggest guns in the GOP arsenal, are no longer as powerful as they were in 2002 or 2004. More and more Americans, liberals and conservatives alike, are on to the Republican game. This growing awareness that the GOP has nothing going for it other than fear and divisiveness may lead to big victories for Democrats in November. And Republicans will only have themselves to blame.

[From the Rutland (VT) Herald, June 6, 2006]

THE BULLY'S PULPIT

George Bush is a bully and a coward.

How else to explain this weekend's performance by the president, who used his weekly radio address to push for a constitutional amendment banning gay marriage?

His cowardice is long established, from using his family's influence to duck military service during Vietnam to hiding behind underlings while in the Oval Office. He's never seen a fair fight he can't run from or pay someone else to fight for him.

Now he's beaten down in the polls, with both his foreign and domestic policy initiatives in tatters, already a lame duck and staring at a legacy as a war president during a losing fight. His next-best shot at being remembered by history is as the president who single-handedly bankrupted the country, going from a surplus to record deficits almost overnight.

So what did Bush do? What any schoolyard bully does when they feel threatened: He picked on someone he perceives as an easy target.

In this case, the target is gay marriage. While the country is generally more accepting of homosexuals than it was a generation ago, there is still a taboo against using the word marriage to define homosexual relationships.

The GOP used the same gay-bashing tactic to get out the vote in the last election, and their strategists are clearly banking on a repeat performance to revitalize support for the president, and for the party headed into

the fall elections. Bill Frist, the Senate majority leader, claimed an amendment is needed to protect the other 49 states from Massachusetts' recognition of gay marriage in an opinion piece released over the weekend.

Oddly, the tactic may backfire on the GOP. While the states that have voted on defining marriage as the union of a man and a woman have been unanimous in supporting the measures, using the Constitution as a tool must strike many as a large, blunt instrument.

Amending the Constitution is not easy; it is not meant to be so. That choice by the framers, reinforced through the centuries, makes rational people pull back from cheap grandstanding with this nation's most-cherished document. And the latest move is nothing if not a grandstand play.

In fact, true conservatives may find themselves in conflict over whether cheapening the importance of a constitutional amendment is too steep a price to pay, seeing as the country already has the Defense of Marriage Act, which already does what the amendment promises. And they must despair at seeing a raid on states' rights, a conservative touchstone.

But surely, surely the move must backfire in Vermont. Any candidate who does not immediately and publicly renounce a constitutional amendment against gay marriage will alienate the state's open-minded middle of the road, as well as its substantial liberal population. But any candidate who opposes the amendment will alienate the right wing of the Republican Party. So Bush and Frist have put moderates into a tough spot.

Regardless, it is time for Vermont's candidates in this fall's election to stand up and be counted on the issue. No ducking or excuses, please.

Martha Rainville and Richard Tarrant are running as moderate Republicans; it is their party's leadership that has put the issue on the table; it is their time to speak. They both say they are independent thinkers in the Vermont tradition, who will not simply repeat the party line.

Now they can prove that claim or they can follow the lead of their boss, the coward. It's a clear, if not simple, choice.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SHELBY. Mr. President, I rise tonight as a cosponsor and a strong supporter of the Marriage Protection Amendment before the Senate.

If you had told me 10 years ago, or even 5 years ago, that I would be standing before the Senate advocating a constitutional amendment that defines marriage as a union between a man and a woman, I would have thought you had lost your mind. Why in the world would you ever need to do that, I would have asked? Doesn't it go without saying that men and women get married? Yet tonight I do stand in the Senate advocating a constitutional amendment that defines marriage as a union between a man and a woman, nothing else. What was once thought preposterous is now reality. We are faced

with this new reality because activist judges throughout the Nation have decided to redefine marriage.

The courts, not the people, not the States, are redefining a fundamental institution of our society, the very foundation of our civilization.

Ironically, this new definition of marriage runs contrary to what a majority of Americans believe. In fact, 45 of the 50 States have either a State constitutional amendment or a statute defining marriage as the union between a man and a woman, nothing else. On average, those measures have passed with more than 70 percent of the voters' support.

Today, the voters in my home State of Alabama—and we will know the outcome later tonight—will vote on a State constitutional amendment regarding marriage. I think I know what the outcome will be in my State. Regardless, no judge should be able to impose his or her will on Alabama or any other State if the voters have decided otherwise.

What appears to be a broad consensus throughout the country for protecting the institution of marriage is being undermined and redefined by activist judges. These judges have struck down numerous State laws intended to protect the traditional definition of marriage. State courts in California, Georgia, Maryland, New York, and Washington have overturned laws or amendments protecting marriage, and a Federal judge in Nebraska invalidated a State amendment prohibiting same-sex marriage.

I have long thought that it was the role of the judiciary to interpret the law, not make the law. However, these activist judges across the country have taken it upon themselves to make laws that, in many cases, redefine the definition of marriage. These judges have taken it upon themselves to make decisions reserved for State legislatures who have worked to be responsive to their constituencies and to define marriage in the traditional sense. The difference is that these activist judges do not have to be responsive to anyone and are accountable to no one.

Abraham Lincoln reminded us in the Gettysburg Address that we have a government of the people, by the people, and for the people. Activist judges, accountable to no one, should not be allowed to govern this country. The basic foundation of our Constitution does not invest total control in the judiciary. It is not government by the judiciary; rather, it is a government by the people. On this issue, the people have spoken and will speak again.

Activist judges should not be permitted to redefine the sacred bond of marriage. For generations, humanity has defined marriage as the union between a man and a woman upon which families are built. It is the institution of marriage upon which our society has flourished.

Mr. President, States, in my judgment, must be allowed to continue to

exercise their will. States that pass laws on constitutional amendments should not be overridden by an overactive judiciary that believes it has the power to redefine the moral character upon which our Nation was built. I believe the President recently summed it up when he said:

The union of a man and a woman in marriage is the most enduring and important human institution. For ages, in every culture, human beings have understood that marriage is critical to the well-being of families. And because families pass along values and shape character, marriage is also critical to the health of society. Our policies should aim to strengthen families, not undermine them. And changing the definition of marriage would undermine the family structure.

Therefore, tonight I stand before you in strong support of this constitutional amendment to define marriage as a union between a man and a woman.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I thank my colleague from Alabama for his support for the marriage amendment. I note, as he knows, that Alabama is voting on this very day on this subject. I feel confident that it, along with the other 19 States—this will make 20—will support marriage as a union between a man and a woman.

Mr. SHELBY. I believe that is going to happen today.

Mr. BROWNBACK. If it doesn't—

Mr. SHELBY. Oh, it will.

Mr. BROWNBACK. That is another indication that 20 States have directly voted on this issue. If we would have Senators who follow what the States have done, we would have 90 votes for a constitutional amendment to define marriage as a union between a man and a woman. I thank my colleague for his strong support. I believe the people of Alabama are going to do it today as well.

I have another colleague who will be speaking shortly. In the interim, I want to develop an argument that has been put forward but I think is an important one to further raise and develop. It is one I have mentioned previously on religious freedom. We have the article that has been mentioned by several by Maggie Gallagher on why Catholic Charities was run out of Boston because they didn't support homosexual adoptions. Rather than breaking one of the tenets of their faith, they said we can no longer do adoptions. There is an argument that churches that do not perform same-sex unions will not be allowed to perform any marriages. I think this bears looking at because it is a serious issue that has a legal history and pedigree to it. It is one we should be concerned about taking place.

I was in a church last Saturday night. My oldest daughter was the maid of honor in a wedding. It was a beautiful ceremony. That church has a very clear conviction that marriage is between a man and a woman. They

would not agree to doing marriages between same-sex couples. Then does that mean that they cannot perform any marriages? OK, some say it is too strong of an argument. Yet you have that history in the adoption field, and you have a legal pedigree that is there to develop on top of that. I think that bears watching.

There is another argument I want to further develop while my colleagues are coming to the floor; that is, this one on "slippery slope." People say this is one that isn't going to happen. It is not going to develop. Yet I think the legal pedigree is there for a slippery slope to develop. Some will be recognizing different groups that have stepped forward already to say that if two people of the same sex can be married, why can't there be additional people? What is the legal bias against having more than two people in a marital arrangement? This even has a term now, polyamorist. They have already had one court case trying to gain recognition for a marriage of a woman and two men. They say in some of their advocacy that they are waiting for same-sex marriage to pass to begin agitation to legalize more than two people getting married.

If you think that is not going to happen, you had the minority opinion in the Supreme Court case that recognized that, what is your legal basis of stopping that, too, if it can be two men or two women? Why is it only two? That is what this group is starting to agitate for. They are saying that granting same-sex marriage is supported on equal protection grounds. How is the court going to deny them? There are plenty of polyamorists out there.

The problem goes further. We have an advocacy group called the Alternatives to Marriage Project which supports polyamory and other innovations to parental cohabitation. The Alternatives to Marriage Project is quoted frequently in the mainstream media. Believe it or not, some of the most powerful factions of family law scholars in the law schools favor legal recognition of both polyamory and parental cohabitation. Even law review articles have been published advocating for both. Again, they argue that if two men can get married and two women can get married, if this is an equal protection argument, why is it limited to just two? What is the legal basis or foundational basis in society for this?

I raise that as a point because this area of law is starting to develop. Even the influential American Law Institute came out with proposals that would grant nearly equal recognition to cohabitation. So this is developing in the law.

I raise these items as issues knowing that some people will scoff at it. You can look at what happened in the world in the past year or so as well. Sweden passed the first same-sex partnership plan in the world and had serious proposals floated by parties on the left to

abolish marriage and legalize multi-partner unions. So this is out there and it is one of those things we should watch.

My colleague from Alabama has arrived. I yield the floor to him for his comments on the constitutional amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

MR. SESSIONS. Mr. President, I thank Senator BROWNBACK. He is such a champion on this issue and has raised so many important matters for us to think about. I believe the debate we are having is a very important debate. I remember the hearings we had in the Judiciary Committee. The Senator had several—I believe he had one in the Commerce Committee maybe, and I had one in the Judiciary Committee on marriage.

One of the things we found was that almost every category of individual character and wellness was better if you were married. That is just the way it was. You had a longer lifespan, you ended up with more wealth, you had better health, you were happier, and there was less drug use, less criminality, and less suicide. All of those things are so taken for granted in the committed, historic marriage relationship.

I believe this issue is an important one that is before us. I want to share a few thoughts on the matter that deals with certain issues that are important to me, which I think are important. We are not here, let me say, first of all, because of some band of Christian conservatives. Indeed, virtually every religious organization in America cares about this issue. It is not that we wanted to enter into some sort of argument with the gay community or with those who favor same-sex marriage. We are not here because of a political agenda.

Traditional mainstream Americans were going about their business when courts began a pattern of rulings that subverted democratic principles on the long held meaning of marriage. As the cases and lawsuits have mounted and scholars reviewed the opinions and pondered their implications, it became clear that this activist movement was bold and far reaching in scope. Their design was to effect a complete change in the meaning of marriage, altering an institution that is thousands of years old. The lawyers who filed these cases had a simple plan: They would file a lawsuit attacking the traditional definition of marriage as a union between a man and a woman. They would urge the courts to declare, based on some subjective constitutional theory such as evolving standards of decency, that the Constitution of the United States—they sought to have the courts declare that the Constitution of the State or the United States requires that marriage be redefined to include same-sex marriage.

When the people complained about this usurpation, what did you hear

back from those who promote these ideas?

They all lift their noses and respond: "All we are doing is being faithful to the Constitution. Don't you respect the Constitution? We know you have deeply held beliefs, and we understand that, but we all must yield to the requirements of the Constitution, don't you know?"

That is kind of the feedback we get on this issue. But the American people are not so easily fooled. They chose not to go quietly this time. They have chosen to fight, and it is going to be a long battle. And well they should have made that decision since the question here raises the nature of marriage and the usurpation of judicial power to effect a political or social agenda, which are matters that go to the heart of this Republic and our governing structure.

So let's make some things clear. One, those who believe in the traditional definition of marriage did not start this fight. The debate is not a distraction from important issues; it is an important issue. It is not about wedge politics.

Let me state the plain truth. We are here debating this issue because there has been a deliberate and sustained effort by leftists in America to alter the definition of marriage to include a union of two men or a union of two women. This action has been, to some degree, successful, as shown by rulings in a number of important cases. So the matter is real. It is not a theoretical matter; it is very real, right now.

I do not agree with these changes in marriage. I favor the traditional approach for many reasons. More importantly, the American people overwhelmingly oppose this idea. There has been no support in the Senate, no support in the House of Representatives or the State legislatures for such actions. This new marriage concept has been rejected by legislative branches all over the Nation and has been rejected in, I think, 19 statewide votes, averaging about 70 percent each time.

These social activists have always known they have no chance to get elected officials to adopt their concept of marriage. It will not be voted in. So they have looked through the Constitution and decided their goal could only be achieved by arguing before activist judges that denying same-sex couples the right to marry is a denial of the constitutional guarantee of due process or equal protection or ideas such as that.

The Supreme Judicial Court of Massachusetts flatly agreed with those lawyers. This court declared that the constitution of Massachusetts, adopted in 1780, requires that same-sex unions be given the same recognition as a union of a man and a woman. They found that a constitutional requirement. This is activism, pure and simple. It is the very definition of activism.

The drafters of that constitution in 1780 would never have imagined their

constitution would some day be so twisted. The Massachusetts Supreme Judicial Court plainly reached, I believe, a political, social, and cultural conclusion about homosexual unions. And they took language out of their State constitution that was never, ever crafted, designed, or expected to cover such a situation as this, and they just declared that the long established concept of marriage violated the constitution of Massachusetts. They just did it. These judges don't have to stand for election—certainly Federal judges do not—and they are not accountable to the American people. If judges do not show their personal restraint, modesty, and fidelity to the Constitution—whether or not they like the Constitution—then democracy is thwarted. So this is no small matter, I say to my colleagues.

Some will argue that the problem is a problem for Massachusetts only and that each State can decide these issues. But the U.S. Constitution provides that every State must give full faith and credit to the marriages of another State. In other words, the U.S. Constitution ordinarily requires that each State must recognize the marriages of other States.

But what about DOMA? We passed DOMA, the Federal Defense of Marriage Act, in this Congress a number of years ago. It was passed to deal with what was perceived as a problem a decade or so ago. Didn't DOMA fix the problem?

The simple answer is no. To understand why, let's look at the Supreme Court's ruling in *Lawrence v. Texas*. I was attorney general of the State of Alabama. This deals with one of the things you do as an attorney general of a State: you defend the laws of that State when they are challenged in the Supreme Court of the United States. So I can identify with Texas in this matter.

Without regard to established law, the Supreme Court reversed their own opinion on a very similar case in Georgia just 17 years earlier and followed a new vision of social justice, masquerading, I suggest, as constitutional law. In *Lawrence v. Texas*, the Supreme Court reversed their opinion in *Bowers v. Hardwick*, a Georgia case, and said all State sodomy laws are unconstitutional.

This is most certainly not a discussion concerning sodomy laws or the wisdom of such statutes. This debate is about the Constitution, what it means, and who controls the legal and social policy in America. Some statutes and ordinances certainly are unconstitutional and should be declared so. A city ordinance that required Rosa Parks to sit at the back of a bus simply because of the color of her skin did violate—clearly violated—the command of the U.S. Constitution that everyone be provided equal protection of the laws, and Judge Frank M. Johnson and the U.S. Supreme Court were correct to strike it down as discriminatory. That deci-

sion was not activism. It was a new commitment to the plain meaning of the existing Constitution that had been the law all along.

The situation is quite different in *Lawrence*. It is instructive to review how five members—only five, really, because Justice O'Connor only concurred in the result, not in the reasoning—of the Supreme Court came to reverse *Bowers*, which had upheld Georgia's law just 17 years before.

So what changed? Certainly not the law. Certainly not the Constitution. This is why our American people need to pay close attention to these issues, or the judicial sleight of hand that is beginning to occur too often will succeed. No doubt the American people are paying closer attention today than they have in the past.

The majority opinion in *Lawrence* divorced morality from law. The Court flatly held that morality, even long established, objectively determined moral values, cannot be a basis for law, so they struck down the Texas law. The Court said the law was a product of morality, which they found was without value as a justification for law. I kid you not, that is what they did.

Remember, the Court is examining now a long-established provision of criminal law, a provision that had been recently upheld as constitutional. Remember also, the issue is not whether you approve or would vote for such a law but whether it stands without any basis such that it becomes the duty of the Supreme Court to strike it down as violative of the U.S. Constitution. *Lawrence* was troubling, with far-reaching ramifications.

What does *Lawrence* have to do with the marriage amendment? A great deal, unfortunately. If the Supreme Court were to hold that marriage should no longer be limited to a union of a man and a woman and a court finds as they did in *Lawrence* that such is required by some word or phrase in the Constitution, than any Federal law, such as DOMA, or any State constitutional provision—we are voting on one in Alabama today to protect marriage, and I assure you it is going to pass—but any State constitutional provision would be erased from the books, held for naught, and struck down if found to be in violation of the Constitution because the Constitution is the supreme law of the land and its provisions trump all other laws and State constitutional provisions.

In *Lawrence*, the U.S. Supreme Court used very broad language that by fair deduction would suggest that the majority's reasoning would be supportive of redefining marriage. While not denying the logic of this possibility, the Court in its opinion in dicta did note that *Lawrence* "does not involve whether the government must give formal recognition to any relationship that homosexual persons seek to enter."

So the facts did not involve that, but the opinion did not deny that this same

reasoning could be used in the future in cases such as the Massachusetts marriage case. It was obvious, of course, that the issue of same-sex marriages was not before the Court in *Lawrence*, but they were aware of that.

Justice Scalia was not beguiled by this language. His brilliant dissent went right to that point, and it is the issue before us today. Justice Scalia aptly stated:

This case "does not involve" the issue of homosexual marriage only if one entertains the belief that principle and logic have nothing to do with the decisions of this Court.

It doesn't involve the issue of homosexual marriage only if logic and principle have nothing to do with the opinions of the Court. What he is saying quite plainly is, following the logic and principle of the opinion in *Lawrence*, marriage, as we know it, is in jeopardy today, and he dissented. Justice Scalia is a brilliant jurist. He loves the law and believes in being faithful to the law as written, not as he may wish it to be.

This debate in the Senate about activism is important. It is a debate that was raised aggressively in recent elections in Senate races and the Presidential election. President Bush said he admired Justice Scalia and he wanted more judges on the Court such as Justice Scalia.

Justice Scalia's dissent reflects one of the critical issues that highlight the difference between an activist judge and one who is respectful of the people's branch of Government, the legislative branches of Federal and State government.

In large part, the Massachusetts marriage case and *Lawrence v. Texas* are the kinds of rulings that have caused so much controversy, rulings where a slim majority of an aging group of justices—four maybe in some courts, five on the U.S. Supreme Court—allow personal views on some subject to cloud their thinking to such an extent that they delve into the Constitution in order to find some phrase they can use to impose that view on the people, all the while insisting they are merely following the commands of the Constitution.

In fact, our Supreme Court Justices have created a double standard. They have plainly held that the legislative branches—the Congress, our State legislatures—elected by the people, cannot base a law on an established, objective moral code, but they—the enlightened judicial branch, the one branch of our Government unaccountable to the people—may strike down congressionally passed laws if the Justices conclude that the legislative laws do not comply with what the judges find are "evolving standards of decency."

"Evolving standards of decency" is a phrase activist judges often use, and it can mean anything. Who can say what that means? "Evolving standards of decency" is not a proper legal standard. It lacks the precision needed for a legal standard. It is, in fact, not a standard

at all. In truth, it is a license to the court. It can allow as few as five Supreme Court Justices to roam the world to find European law or some other foreign law or some study or some report which they base their opinion upon.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I thank the Chair. I ask unanimous consent for 5 more minutes.

Mr. CARPER. Mr. President, I will have to object to that. I agree to 1 more minute.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 1 more minute.

Mr. SESSIONS. Mr. President, I would just say this: that we are at a point in our history where it is now the opportunity of this Senate to allow the American people an opportunity to have their views heard on the question of the definition of marriage. It has been eroded by courts improperly, in my view, but it is being eroded nevertheless. By voting for this constitutional amendment, we will not make any constitutional amendment become a reality. We will simply send the matter to the States. And if three-fourths of the State legislatures agree, only then will this amendment become law. Why would we want to deny the American people the right through their representatives to adopt this amendment? I do not know, and I do not think we should. I think we should support the amendment.

How should the people properly respond to this real or perceived abuse and, in particular, to this very real threat to traditional marriage?

The proper answer is for the people to ask their elected representatives to pass a constitutional amendment to fix the problem, or the potential problem.

It is the right way, the lawful way, for the people and the Congress to respond.

Amazingly, it has been suggested by those who oppose the right of the people to have their voice heard on this matter, that the Marriage Protection Act violates the Constitution. How silly is that? The Marriage Protection Act would become a part of the Constitution. How could it violate the Constitution?

More importantly, the court rulings that have created this crisis are themselves, in my view and the view of many, contrary to the Constitution. Regardless of whether such rulings are sound, the people have a right to have their voice heard on the matter of marriage.

Some here argue that we should not have an amendment that decides the question here in the Senate but should allow the States to do it. But, that is the problem.

The States, and the people, are having their decisions overturned by courts. On May 16, a Georgia judge struck down that State's law that prohibits same-sex marriage. At least nine

States are facing similar lawsuits. And if Lawrence is any indication, the U.S. Supreme Court seems poised to make a similar ruling.

This is why the American people are rightly concerned and want us to do something to stop this trend by the undemocratic branch of government from altering marriage, a cornerstone of our civilization.

Of course, if this Congress were to pass the Marriage Protection Amendment, it does not then become law. It then would go to the States where three-fourths of the State legislatures would have to agree, for it to become part of our Constitution.

Thus, our vote today is the key step in allowing the States to express the will of their people.

Thus vote against the Marriage Protection Amendment by those who say they oppose same-sex marriage, would deny the States the authority they need to protect their laws from judicial activism.

Finally, some argue that marriage is not an issue of such importance that it should be placed in our Constitution or even have debate time allotted to it. They are wrong. This is a huge issue, one of great importance. The real question is, why deny the right of the American people through their legislatures the right to vote on this issue? What harm is there in letting the people speak? I suspect the real concern of many is that if this amendment were to get to the States, it would pass. Those who openly or surreptitiously favor same-sex marriage surely would not want the Marriage Protection Amendment to go to the States.

And, there is nothing unusual about constitutional amendments that address specific problems.

We have passed amendments that are quite specific as well as broad.

The 27th amendment, ratified May 27, 1992, provides that Congress can't raise the pay of members of the House or Senate until the next election in the House.

The 26th amendment, ratified July 1, 1971, provides that eighteen-year-olds must be allowed to vote.

The 25th amendment, ratified February 10, 1967, provides for presidential succession.

The 24th amendment, ratified January 23, 1964, abolished the poll tax.

To my mind, the Marriage Protection Act is a wonderful way to allow the American people to have their voices heard on a matter that is very important to them and our Nation.

The courts have gotten it wrong. Wrong as a matter of law and wrong as to policy. They are not higher beings. They make mistakes and they need to be held to account so that good law and good policy are restored. A narrowly drafted constitutional amendment that deals with this one, single issue, is the proper way to give legitimate voice to our citizens.

The traditional understanding and law of marriage are being overturned.

The sounds of the conflict can be heard in Lexington and in Omaha. Why stand we here idle? Let's authorize the Marriage Protection Amendment to go to the States so the people's will may be accomplished. After all, our founders created a democracy, not an oligarchy. I yield the floor.

Mr. CARPER. Mr. President.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, my friend from Alabama has just called for the Senate to vote and the House to vote, two-thirds majorities to vote to send to the States the question of whether or not our U.S. Constitution should be amended with respect to marriage being only between a man and a woman. Actually, in my State and in 45 other States around the country, we have had the opportunity to debate this issue, to consider this issue, and to pass laws with respect to marriage as between a man and a woman.

Personally, I believe that it is. As Governor of Delaware, a number of years ago I signed into law the Defense of Marriage Act in my State that says marriage is something that occurs between a man and a woman. Not only did I sign that law, but I supported the Federal law which was enacted here, signed by former President Clinton, which said States like my own and those other 45 States, to the extent that we define marriage as being between a man and a woman, our State law, respective State laws, cannot be violated by the actions of some other State.

I will give an example. If we have a same-sex couple in Delaware who decide to go to another country or another place where same-sex marriages are allowed, and then that same-sex couple comes back to Delaware and claims they are married, they are not married in my State. It is not a marriage that we recognize. In fact, for the over 200 years that we have been around as a country, States such as Delaware or California or Georgia or Alabama or Kansas have set the rules for marriage. We don't say to the Federal Government: You determine who can get married, at what age people can get married, or what kind of waiting period there has to be, or can first cousins marry or second cousins; we don't say what the rules of the road are with respect to divorce, with respect to alimony, with respect to child support. For over 200 years we have left those issues to the States.

Today we have said very clearly in my own State, marriage is between a man and a woman, a view that is reflected in almost all of the other States in this country.

If we get to the point where our ability to maintain that position in my State or in the other 45 States that have adopted similar laws, where those laws are threatened or basically rendered ineffective, then I think the idea of visiting a constitutional amendment is something we may want to do. But I

don't know that it is needed. I am not convinced that it is needed for us to amend the Constitution to do something that I believe we already have done by changing our own State laws, and those State laws are protected by a Federal law.

We have not amended the Constitution a whole lot of times. We have amended the Constitution 17 times; since 1791, 17 times. I am 59 years old. We have amended the Constitution just six times in my own lifetime. We have amended the Constitution for good and valid reasons. We have amended the Constitution to protect our freedom of speech, to protect our ability to worship God as we see fit. We have amended the Constitution to ensure that we have the right to bear arms, to ensure the right of a trial by a jury of our peers. Other constitutional amendments have been to protect us from unlawful searches of our homes and have guaranteed our rights to assemble in Washington and in Dover and across this country to present our grievances to those who serve us. Constitutional amendments have abolished slavery. They have provided women the right to vote. They have provided 18-year-old young men and women with the right to vote, and they have limited our Presidents to serving only two terms. They decided through a constitutional amendment that if we don't have a Vice President for some reason, how one would be selected. All of those are important, and some would say urgent, pressing needs that have been addressed and have been put into our Constitution.

I am not convinced given the actions of my own State and 45 other States, the actions of the Congress and former President Clinton signing the Defense of Marriage Act, that we need to enshrine in the Constitution today what we have already enshrined in State laws and Federal laws with respect to the fact that marriage is between a man and a woman.

I do know what some would say: that this is election year politics. We do this every 2 years, and it happens sort of coincidentally like 5 months, 4 months before an election, and it is through the efforts of one party or the other to try to energize their base.

I don't know if that is part of this. I do know this: There are plenty of other important issues that we need to be addressing.

We have a war in Iraq where the going is tough. We are losing people, including some young men from my own State just last month, and we are suffering tragic and sad losses of life. We have a situation in Afghanistan which is not going as well as some of us would like and had hoped for. We are a nation today where almost 60 percent of our energy depends on foreign sources, a lot of it controlled by people who don't like us very much. And we aren't convinced that when we take our money to fill up our tanks with gas that they will not use our money to hurt us.

Our dependence on foreign oil continues to grow, not abate. The cost of health care is killing us in terms of our ability to compete. As a nation, we spend more money—companies such as General Motors—on health care than is spent on all capital investments around the world. We have people who are sick and dying from asbestos poisoning, and they are not getting and their families are not getting the money they deserve. Meanwhile, other folks who have been exposed to asbestos but don't have asbestosis and have never had it, will never have it, they get money. We live on a planet where the air is becoming warmer, and we are threatened by more hurricanes, tougher and stronger hurricanes and typhoons and cyclones as we have ever seen in recent years.

We have a Tax Code where literally, last year, \$290 billion was owed in taxes. We know who owes it, and we know how much they owe, but it wasn't collected. Federal agencies made over \$50 billion of improper payments last year, most of those overpayments. We have government-sponsored enterprises such as Fannie Mae and Freddie Mac that don't have the kind of regulation they need. We have data breaches where the Veterans' Administration is literally turning over to unscrupulous people data for 25 million, 26 million of our veterans. We have a passenger rail system in this country which is, compared to the rest of the world, just sad, and we aren't doing anything about it. We have legislation that passed 93 to 6 last year to reauthorize and improve passenger rail service and nothing has happened to it. Nothing has happened to it. We have a postal system that literally is a relic of the 1970s trying to operate in the 21st century. We have plenty to do. We have 45 legislative days ahead of us to do all of that, and we are spending 3 of those legislative days on this.

I know there is a need that some Republicans feel to bring up this issue again, and I respect the fact that you are in the majority; it is your right. I understand later this month we will deal with some other contentious issues. I have had the opportunity to meet with the Republican leadership. Some of us have had the opportunity to meet with the Republican leaders. We are self-described centrists. I call us the flaming moderates. But we have sort of reached out to the Republican leadership to say there is a whole list of things that we need to focus on: deficit reduction, budget deficit reduction, trade deficit reduction, energy independence, you name it. There is a whole long list of what we ought to be doing, and we should be focusing on that agenda, not just on this.

That is not to say marriage isn't important; it is hugely important. It is the basic building block of our society. We know families are in trouble and hurting in a lot of ways. One of the things I would like to see us do and put a lot more emphasis on is ratcheting

down unwed mothers and teen pregnancies. We ought to do a heck of a lot more in childhood education to reduce the likelihood that young women will bring children into the world and that young guys are going to impregnate them. We need to do a whole lot more in that regard. That is the kind of agenda that we need to be working on and looking to across the aisle.

That having been said, I have used my time. I will close with this: In my view, marriage is between a man and a woman. In Delaware's view, marriage is something that is between a man and a woman. We passed a law that says that. We are not the only State that did that. Forty-five other States did the same thing. We have a Federal Government, this body, the House of Representatives, and the former President who signed a Federal law that said what we have done in Delaware and 45 other States is good and is not going to be overridden. It is not going to be just pushed aside. Until that happens, I am convinced that the proper thing for us to do is to uphold marriage, to honor marriage, and to continue to work as we have in our States to pass good State laws affecting marriage, affecting the raising of our children, but not necessarily to ask the Federal Government to do that because until I am convinced and until most of us are convinced that, frankly, we need Federal intervention, then I think let's stick with what has worked for us for over 200 years, and that is allowing the States to do this.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent to be allowed to address the Senate until 7 p.m. tonight.

The PRESIDING OFFICER. The Senator has that right.

Mrs. BOXER. Mr. President, before he leaves the floor, I wanted to say to my colleague from Delaware that he painted a very strong case of what we ought to be doing on the Senate floor. Without reading a note, he ticked off a list of six or seven things or eight things that we really need to take care of, and I just wanted to thank him very much.

I rise today to oppose the proposed constitutional amendment on marriage. I oppose it. I think it is divisive. I think it is unnecessary. I want to lay out the reasons.

First of all, the proposed amendment is nothing more than a cynical election year ploy. I truly believe that, and I think if anyone has followed this every-couple-of-year debate, they know it is true. It pops up like clockwork around election time.

Second, the definition of marriage, as has been stated by Senator CARPER from Delaware, who was the Governor of that State, has been determined by the States, and indeed the States are acting in many ways to decide whether they want to legalize gay marriage or legalize domestic partnerships or civil

unions or outlaw all of these things. So States are making their decisions, and they should be respected.

On a personal note, let me say that I have been married for 44 years to the same person. I have to say as someone married for that length of time, the fact that two gay people decide they want to take care of each other for the rest of their lives and care about each other for the rest of their lives, that doesn't threaten my marriage one bit. It doesn't threaten me. It doesn't make me worry about my marriage. My marriage is too strong for that. The fact is, if someone feels their marriage is threatened because two gay people care about each other, then their problems go way deeper than they are caring to admit.

Throughout our Nation's history, we have only amended the Constitution to extend rights and equality, and that is an important point. So I think we have established in this debate that the States are taking care of this issue, and they are coming out in all different places. That is the way it ought to be.

So here we are, June 2006, with only a few precious months left on the Senate calendar, and we are facing some very serious issues at a critical time in our history. It is our duty to respond to the American people and their needs. I truly believe that this President and the Republican leadership are ignoring the needs of the American people, and that is why we see the lowest ratings ever—I think ever—for this particular Congress and very low ratings for the President.

For example, what do President Bush and the Republican leadership say to the families of our soldiers in Iraq and Afghanistan who want to know when their loved ones will be coming home? Why aren't we talking about that instead of an issue that is being handled by the States? Maybe they don't answer that question because they don't want to say that the war in Iraq has killed and wounded over 20,000 American soldiers, and there is no end in sight to the war.

That brings up an issue that I care a lot about, which is the state of our military men and women. If you want to talk about their marriages for a minute, why don't we do that? Divorces are up, way up, among families who are deployed to these war zones. Families are suffering. The divorce rate between 2000 and 2004 nearly doubled in the Army, and it did not double in the Army because two people who happen to be of the same sex care about each other and want to take care of each other for the rest of their lives. That is not why military marriages are failing. They are under stress, impossible stress, the hard-to-imagine stress of being deployed again and again and again, going out on a battlefield with antidepressants being handed out to them. That is why they are suffering. That is why we see their marriages breaking up and their children crying themselves to sleep every night. But,

oh no, we are not talking about that. We are talking about an issue that is being handled by the States.

I don't understand why this administration will not talk about these issues. Why won't they talk about the fact that we have lost our focus in Afghanistan, despite the fact that a resurgent Taliban has vowed to step up attacks during coming months and we are seeing such a resurgence of the Taliban there. Why aren't we discussing that instead of a cynical and divisive and unnecessary constitutional amendment about something that is being taken care of by the States?

What do President Bush and the Republican leadership say about our security here at home? What they don't want to say is that nearly 5 years after 9/11 they still have not adopted the recommendations of the 9/11 Commission. Shouldn't we be discussing ways to secure our ports and our rails, and ways to track foreign visitors in the U.S., instead of this cynical, divisive and unnecessary constitutional amendment on a subject that is being handled by the Governors and by the States?

Why do President Bush and the Republican leadership say nothing about gas prices? Why are they doing nothing about gas prices? Maybe it is because they don't want to say that they don't have any solutions—like raising fuel economy standards in a meaningful way or strongly promoting the use of hybrid cars or flex-fuel vehicles so we use less gasoline. This President tomorrow could issue an Executive order that says all the cars that are bought by Federal taxpayers for the Federal fleet have to be the most fuel efficient cars available. They are not doing that. They would rather talk about this amendment, which is about a subject that is being handled by the States.

What does the President and what do the Republicans and the leadership say to the millions of Americans who need access to affordable health care? They don't want to talk about that. They want to talk about this divisive amendment. Maybe it is because they have no clue of what to do, even though health care costs continue to be a tremendous burden on our small businesses and our individuals and our families, and the prescription drug benefit is rife with problems.

Tomorrow we could vote to give Medicare the power and the authority to negotiate for lower drug prices, which would save that program millions, and we would be able to make the program stronger and not put a halt to the benefits, which is called a doughnut hole, just when the sickest patients need more. Oh, no, they would rather talk about an amendment on a divisive subject that is being handled by the States.

Why don't they talk about the fact that our families are struggling to pay for college tuition for their children? They don't want to talk about that because they have failed to help Amer-

ica's families pay for college, despite the fact that tuition is becoming hugely expensive and more expensive each and every year. As a matter of fact, President Bush just signed a tax law that makes college loans more expensive. But, oh no, we can't talk about that. We are going to talk about a divisive amendment on a subject that is being handled by the States.

Why don't they want to talk about our fiscal situation? Why don't they? They don't want to say that as a result of their policies, the policies of this administration and my Republican friends, we now have seen the surpluses that were left to them, to their stewardship, turn into deficits as far as the eye could see. They are projected to hit well over \$300 billion, and the public debt stands at an eye-popping \$8.4 trillion. When they got the reins of Government there were going to be surpluses as far as the eye can see. Now there are deficits as far as the eye can see.

They don't want to say that it is this administration's failed policies that will leave our children and grandchildren with a bill for the tax cuts to the wealthiest people, tax cuts that we can't afford.

How do they really respond to the concerns and the anxieties of the American people, anxieties and concerns that we see in poll after poll? This is not Democratic polls or Republican polls, these are everybody's polls. People are worried. They say we are on the wrong track.

But this is what this administration says, and this Congress, they say: Sorry, America, please hold. Please hold, America, while the Senate takes time to consider a constitutional amendment that has nothing to do with the most serious issues you face today. Why? Because they need to score political points. Please hold, America, because, although we have been elected to serve you and unite you, we would rather divide you for our own partisan interests.

If I were a conservative I would be insulted today, insulted by the fact that I am being used as a political pawn by this President and the Republican leadership. I would be insulted.

The issue of marriage has been determined by the States. For those people who worried about it, there was DOMA, the Defense of Marriage Act. I believed at the time that wasn't even necessary because I believe the States have the right to make decisions about marriage. But it passed and it has been upheld. So what is the problem? There is not a problem.

From the party that says let the States decide, suddenly the States do not know as much as these Senators here. They know everything, and they are going to amend the Constitution on something that the States are handling.

This, in many ways, is a telling moment for this Senate. With all the issues I have laid out and the issues

that Senator CARPER has laid out, there is no planning for these issues. So this Senate is being used as part of a political campaign. I resent that, when we have men and women dying every single day in Iraq, newspaper reporters being blown up. But we have to talk about a subject that is being handled by the States.

As I said before, we have never amended our Constitution to take away rights. We don't do that in America. We are too strong for that. We are too good for that. We are a model of freedom because of that. But that is precisely what is being proposed here, an amendment that is unnecessary because the States are handling this and all this does is divide us instead of uniting us.

Look at some of the great examples of our constitutional amendments.

The Bill of Rights—the first ten amendments—guarantee important liberties to Americans, from freedom of speech to freedom from unwarranted search and seizure to freedom of religion. And the 10th amendment reserves for the States all powers not specifically given to the Federal Government.

The 13th, 14th and 15th amendments corrected the horrific injustices of slavery by giving African-Americans the right to vote and equal protection under the law.

The 19th amendment gave women the right to vote, and the 26th amendment gave 18-year-olds the right to vote.

This short but impressive list of amendments demonstrates that our Constitution is meant to expand, not restrict, freedom and equality.

I want to say to my colleagues that there is something about this debate that has bothered me. As I have listened to some of my colleagues comment in support of this proposed amendment—which is their total right to support—I have been troubled by the suggestion that gay Americans are responsible for a host of problems in our society, from children born out of wedlock to poverty to divorce. These comments are wrong. These comments are wrong. It is wrong to find scapegoats in our great country. Gays and lesbians, they are God's children too. They wake up every morning, they try to do the best to live their lives, the best for the people they love. And they live their lives one day at a time.

We can solve problems such as unintended pregnancies, poverty, divorce, and adoption without stooping to scapegoat and hurt so many people.

If we want to strengthen families, let's strengthen families. Let's help families with their college tuition. Let's help families with their child care. Let's help them by raising the minimum wage. Let's clean up Superfund sites that are near schools. Let's help the 44 million Americans who need health insurance. Let's help those who are reaching retirement age, who are so frightened because the promise of the golden years is not there.

Let's reach out to each other and do that instead of being forced to deal

with manufactured political issues which, again, pop up every election year. That sends false hopes out to some Americans who really want this constitutional amendment. They are being used. It also sends out fear and sadness to so many other Americans.

We can do better. We must do better for all Americans.

I yield the floor.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the motion to proceed to the marriage amendment be temporarily withdrawn and that the Senate resume that motion immediately upon convening tomorrow morning.

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

WEST UNION, WV: STILL MAKING HISTORY

Mr. BYRD. Mr. President, among the beautiful, rolling-green hills of northern West Virginia is a little town with a big history. I am speaking of the town of West Union, the county seat of Doddridge County.

Once a center for railroading and other forms of transportation, as well as oil drilling, coal mining, and other forms of businesses and manufacturing, West Union was an important and thriving commercial center in the late nineteenth century. Unfortunately, like too many small towns in West Virginia and across the country, West Union has fallen into some hard times.

Nevertheless, West Union retains its rich and colorful history. Indeed, the entire downtown district of West Union has been placed on the National Register of Historic Places. The downtown section contains buildings that feature a wealth of architectural styles, with four of them having been listed on the National Register. These historic buildings include the Doddridge County Court House with its Romanesque architecture, and the Silas Smith Opera House which was built at the turn of the last century and now serves as the county library.

For a small town in the hills of West Virginia, the town of West Union has been the home of a number of prominent American citizens. General Bantz Craddock, who rose to be the Commander of U.S. Southern Command and is responsible for military operations in the Caribbean, Central America, and South America, was raised in West Union.

For many years, West Union was the home to Clyde Ware, a novelist who has been actively involved in television and film production. In fact, Mr. Ware wrote and directed many episodes of what was one of my favorite television series, "Gunsmoke."

The town's most famous historic resident was the legendary Ephriam Bee. Mr. Bee was a pioneer, a black-

smith, the U.S. Postmaster for West Union, and the owner of a highly popular inn and restaurant, appropriately referred to as the "Bee-Hive." At the age of 60, Mr. Bee served as captain of the Doddridge militia which protected the area from Confederate forces, thieves, and outlaws.

In 1863, Mr. Bee was elected to the West Virginia State Legislature, defeating Joseph H. Diss Debar, the person who later designed the State seal of West Virginia, which is still in use today, without change.

Another contest that Mr. Bee won was being named the Ugliest Man in the State of West Virginia. For that victory, he was awarded a beautiful pocket knife, a proud possession which he was forced to relinquish a few years later when the State found a man whom it deemed to be even uglier.

In 1845, Mr. Bee originated the Ancient and Honorable Order of E. Clampus Vitus, ECV, of which he became Grand Lama. ECV was originally formed as a secret order for playing practical jokes, but as it spread across the country, it took on different purposes and missions. Today, ECV has become an important historic preservation society, with more than 100,000 members.

Mr. Bee also operated an important station on the underground railroad. He hid his guests in a nearby cave until it was filled, then, it appears, he used ECV to create a diversion so that the escaped slaves could be sent on their way to freedom.

What became the town of West Union was originally settled in 1807. It was incorporated on July 20, 1881, which means the town of West Union will be celebrating its 125th anniversary this summer. The town will be using this milestone anniversary in an effort to promote and celebrate the town's history and as a jump start toward the economic revitalization of the town. The festivities are planned for July 22, and they promise to be a time of fun, entertainment, and education as the town wants to share its unique and colorful history with the world.

The town of West Union has adopted as a slogan, "We love our history—that's why we're still making it!" With its history—and its energetic, creative residents, I am confident that the town of West Union will be making history for a long time into the future.

I wish them the best on their 125th anniversary.

HONORING RETIRING JOURNALIST DICK KAY

Mr. DURBIN. Mr. President, I rise today to honor Dick Kay, a man of great journalistic integrity. Many things have changed in the past 40 years, but from Martin Luther King, Jr., to Adlai Stevenson, from Iraq to the Daleys, from Watergate to the 1985 Bears, there has been one voice Chicagoans have consistently trusted for an objective and thoughtful perspective. Dick Kay has established

himself as an institution in our television news. Over his 46-year career in the TV business, Dick has proven himself to be a professional newsmen—a reporter with no motive other than to give his viewers an insight on the news.

Dick's distinguished career began modestly. A high school dropout at the age of 14, he worked to support himself. He once said, "the experience of those years taught me the most valuable lessons of my life: that I would never achieve any real success without an education." He enlisted in the U.S. Navy at the age of 17, earning a GED certificate. After his discharge, Dick realized his dream of an education by graduating from Bradley University in Peoria through the GI bill, receiving a B.S. in speech education in 1962.

Dick remained in Peoria to work on TV and radio programs before getting his big break as the news director of WFRV-TV in Green Bay, WI. After 3 years in the "Dairy State," he relocated to Chicago in 1968 as a producer and writer for WMAQ-NBC 5. He was tested immediately, as one of his first assignments was the tumultuous 1968 Democratic National Convention in Chicago. Within 2 years, Dick had worked his way up to full-time reporter and eventually political editor. He became host of the weekly news show "City Desk." This Sunday morning broadcast became a Chicagoland staple—a "must-see" for everyone following the political scene. Dick's questions were often tough but always fair. Political guests knew that a visit to "City Desk" would always be memorable.

Dick's achievements include a long list of honors and awards. His 1984 9-month investigation of the Illinois General Assembly's so-called Legislative Study Commissions earned him the George Foster Peabody medallion, the most prestigious honor in television broadcasting. The report also won him a National Headliner Award and the Jacob Scher Award for investigative reporting. Dick's numerous accolades include 11 Emmys; induction into the Television Academy's Silver Circle Hall of Fame; Commentator of the Year from the Joint Civic Committee of Italian-Americans; as well as multiple awards courtesy of the Associated Press, the Chicago Headline Club, and the Society of Professional Journalists. Perhaps one of Dick's proudest moments was being honored as a Bradley University Distinguished Alumnus. He has surely come a long way since shining shoes at the age of 14 in Evansville, IN.

Mr. President, after nearly a half century of reporting the news, Dick says that he is ready to "smell the roses," and he has certainly earned it. Dick Kay has played an important role in reporting the exciting news stories of our time and has left his mark on the "Land of Lincoln." I wish a restful and happy retirement to Dick Kay, one of Illinois' and Chicago's premier newsmen.

W. RALPH BASHAM, COMMISSIONER OF CUSTOMS

Mr. GRASSLEY. Mr. President, today President George W. Bush witnessed the swearing-in of W. Ralph Basham to serve as Commissioner of Customs in the Department of Homeland Security. Mr. Basham's nomination was favorably reported out of the Finance Committee on May 18, 2006, and he was confirmed by the Senate on May 26, 2006.

The President nominated an outstanding individual to be Commissioner of Customs. Ralph Basham has served as Director of the Secret Service and is a 29-year veteran of the Secret Service. He has also served as chief of staff for the Transportation Security Administration and as director of the Law Enforcement Training Center in Glynco, GA. His demonstrated commitment to public service is admirable. And the breadth of his experiences will be an important asset as he assumes his new responsibilities.

The Commissioner of Customs serves in a critical and demanding role. The Commissioner of Customs must ensure that the dual demands of securing our borders and facilitating the smooth flow of international trade are each fully met. As part of his confirmation process Mr. Basham appeared before the Finance Committee, which I chair. During his hearing, I was impressed with Mr. Basham's appreciation of the importance of maintaining an appropriate balance in meeting those dual demands.

More broadly, the Commissioner of Customs heads a bureau of over 40,000 employees. Those Government employees are on the front line for enforcing laws related to over 40 agencies. At the same time, they process \$1.7 trillion worth of imports and collect about \$28 dollars in duties and fees. This trade is critical to our economy. For example, the 10-day strike at the port of Long Beach a few years ago is estimated to have cost our economy between \$1 billion to \$2 billion each day. That illustrates why maintaining an appropriate balance between trade security and trade facilitation is so important.

As chairman of the Committee on Finance, with jurisdiction over customs and international trade, I look forward to working with Mr. Basham to advance a robust customs and trade agenda now that he's taken over as Commissioner of Customs.

DARFUR

Mr. LEAHY. Mr. President, while the Senate, with the encouragement of a White House in full campaign mode, debates a constitutional amendment to ban gay marriage—a debate which will consume days of the Senate's time and is all about scoring political points in an election year—the disaster in Darfur rages on.

It has been nearly 4 weeks since a peace agreement was signed between

the Sudanese Government and one of the rebel groups, but violence, hunger and disease continue to claim innocent lives.

Jan Egeland, United Nations Under-Secretary General for Humanitarian Affairs, recently described the humanitarian situation in Darfur as being on the verge of collapse.

In the midst of this calamity, the Senate is focused on other matters. Gay marriage. Next it will be flag burning. And then full repeal of the estate tax, to benefit the wealthiest of the wealthy. Solutions in search of a problem, while whole villages burn, their inhabitants are slaughtered, and relief organizations in Darfur struggle to cope without adequate resources.

Between a quarter of a million and half a million people have perished in Darfur—mostly civilians whose villages have been reduced to ashes. Many, who escaped being shot or hacked to death, have died from hunger and disease.

The Sudanese Government has obstructed the deployment of a U.N. peacekeeping force in Darfur. The African Union has done its best, but with only 7,000 troops, inadequate resources, and a weak mandate to patrol a vast area with few roads, it has been unable to provide civilians with the protection they need.

I am so very proud that two high school students in Vermont are setting a moral example for all Americans. Ben Rome and Brian Banks, seniors at Essex High School, outraged over the tragedy that is unfolding half a world away, felt compelled to do something about it. They have organized a public rally in Burlington, VT, for this coming Sunday to bring Vermonters together to speak out about one of the worst human disasters in recent memory. I look forward to joining Ben and Brian and other concerned Vermonters this weekend.

The supplemental appropriations bill for Iraq, Afghanistan, Hurricane Katrina recovery, and Sudan, which should be completed this week—and I hope we can find the time to pass it—contains additional funds to support the current level of peacekeepers in Darfur through the remainder of this year. This will help, but twice that amount is needed.

The supplemental also provides additional funds for food and other humanitarian aid. It should shame the White House and the Congress to reflect on the fact that we know we are not doing enough.

We also provide funds to support a Presidential special envoy for Sudan, to work in pursuit of peace in Darfur and stability throughout Sudan, northern Uganda, and Chad. We need someone of the caliber of Senator Danforth to be working continuously to help solve the Darfur crisis.

A tragedy like this is bigger than any of us as individuals, but it is not too big if we join together in constructive action—as individuals, as private relief organizations, and as nations.

America is a great and good nation with the power to help stop this. But it will take sustained attention, and it will take the efforts of committed citizens like Brian Banks and Ben Rome who, one by one, are opening the world's eyes to a tragedy that must be stopped.

NATIONAL HUNGER AWARENESS DAY

Mr. KENNEDY. Mr. President, today is National Hunger Awareness Day, and it is an opportunity for all of us to pledge a greater effort to deal more effectively with this festering problem that shames our Nation and has become even more serious in recent years. Surely we can all do more to care for neighbors and fellow citizens who fall on hard times.

The number of Americans living in hunger or on the brink of hunger now totals 38 million—5 million more than when President Bush took office. That total includes almost 14 million children, 972,000 more since 2000.

America's Second Harvest, the nation's largest network of emergency food providers, recently conducted a series of interviews with its clients, and the report is astounding. Its emergency food providers serve 4.5 million different people a week—and 24 to 27 million people a year.

Over 36 percent of its clients are children under 18 years old, and 10 percent are elderly. Another 36 percent of its clients live in households with at least one employed adult.

These statistics are shameful. Our Nation's neediest individuals should not be forced to choose between paying for food and paying the rent or paying for medicine.

In Massachusetts, the Greater Boston Food Bank serves over 320,000 people a year—34 percent of them are under 18. All of us in the Commonwealth are grateful that we have food providers like the Greater Boston Food Bank, but they should not have to wage the battle alone. Government can't stand idle in the face of this great tragedy. We have programs in place to fight hunger, but they continue to be underfunded and underused.

Day in and day out, the needs of millions of Americans living in hunger are ignored, and too often their voices have been silenced. Their battle is a constant ongoing struggle. It undermines their productivity, their earning power, and their health. It keeps their children from concentrating and learning in school. We all need to do more to combat it. Government, corporations, communities, and citizens must work together to develop better policies and faster responses.

In 1996, the Clinton administration pledged to begin an effort to cut hunger in half in the United States by 2010, and the strong economy enabled us to make significant progress toward that goal. Hunger decreased steadily through 2000. We now have 4 years left to fulfill that commitment.

The fastest, most direct way to reduce hunger in the Nation is to improve and expand current Federal nutrition programs. Sadly, the current administration proposes to change proven and effective programs such as food stamps and the Special Supplemental Nutrition Program for Women, Infants, and Children. The administration also proposes to eliminate the Commodity Supplemental Food Program, which provides modest food packages to low-income seniors and to mothers with children up to age 6.

It is time to do more for the most vulnerable in our society. National Hunger Awareness Day is our chance to pledge to eradicate hunger in America—and to mean it when we say it.

HOLD ON S. 2012

Mr. WYDEN. Mr. President, up and down the coast of Oregon, fishermen, their families and communities are suffering from the actions of the Secretary of Commerce in curtailing the Klamath salmon fishery without offering the assistance they need to cope with this disaster. Months ago the Pacific Fishery Management Council recommended to the Secretary of Commerce that this salmon fishery be drastically curtailed. The Secretary responded to the Council's recommendation by slashing the quotas and limiting the number of days and areas that could be fished. But despite numerous pleas for help from the affected communities, the Secretary has done nothing for months and months to help out the fishers whose livelihood depends on the Klamath salmon stocks.

The Secretary's continued inaction is not acceptable, and so I am objecting to any unanimous consent request for the Senate to proceed to or adopt S. 2012, the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005 until the Senate can consider legislative steps that will help fishermen in Oregon and California survive this disastrous fishing season. I make this objection consistent with my policy of always announcing "holds" I may place on legislation or nominations.

The State of Oregon is seeking a Presidential emergency declaration for those affected by this Federal action, and I intend to work closely with the State and my colleagues here in the Senate to make sure Oregon's fishing communities are not forgotten and that they receive the aid they will require to make it through this year.

TWENTY-FIFTH ANNIVERSARY OF THE FIRST REPORTED AIDS CASE

Mr. SMITH. Mr. President, I rise to recognize a bittersweet occasion: the 25th anniversary of the first reported AIDS case. June 5 will forever be a day to reflect upon the lives that have been impacted by the HIV/AIDS virus and the significant progress we have made in its detection, control, and treat-

ment. While much ground has been gained over the last quarter of a century, there remains a great deal of work to be done. That is why I stand today to pledge a sustained commitment to the global fight against HIV/AIDS—a fight that we cannot abandon until and effective cure is discovered.

Twenty-five years ago, Dr. Michael Gottlieb with the UCLA Hospital reported an extremely rare pneumonia in five young gay men to the Centers for Disease Control and Prevention, CDC. One of these men, named "Chuck," was from Oregon. Unbeknownst to Dr. Gottlieb, this seemingly insignificant incident ultimately evolved into one of the most significant health events of the modern era. It was 3 years later that the cause of this mysterious outbreak of pneumonia was attributed to the Human Immunodeficiency Virus, HIV. Sadly, for "Chuck" this discovery was made too late; he passed away shortly after he fell ill.

Since 1981, an estimated 25 million individuals have died from the AIDS virus worldwide. What is even more alarming is that 16,000 new cases of HIV are diagnosed every day, quickly adding to the 40 million people who have already contracted the virus. Statistics such as these are disheartening given the scientific and medical progress we have made since the first cases of the illness were reported.

In the United States, an estimated 1.039 million to 1.185 million people were living with HIV at the end of 2003, a 20-percent increase over the estimated number of cases at the end of 2002. While the number of persons with HIV in Oregon is small relative to other States, we nevertheless saw an 85-percent increase in the number of HIV-reported cases between 2002 and 2003. Not since the height of the AIDS epidemic in the 1980s has there been so many Americans living with this terrible illness.

Congress has a great opportunity to further the domestic fight against HIV/AIDS this year. Reauthorization of the Ryan White CARE Act currently is underway, and I am confident that the House and the Senate can pass a bill by the end of this Congress that improves the scope and quality of services provided to those living with HIV/AIDS. As deliberations continue, it is important that we focus upon improving the equitable distribution of resources to States, municipalities, and community-based organizations, and that we not arbitrarily restrict their ability to provide the best care possible to those who need it. Nonprofit groups such as Cascade AIDS in Portland, OR, rely upon Ryan White CARE funds to offer a wide-range of both medical and social support services, like emergency housing and nutritional assistance. We must ensure that the changes we make to the CARE Act strengthen—not harm—the ability of organizations like Cascade AIDS to serve those living with HIV/AIDS.

As we move forward with the annual appropriations process, it is important

that we provide a much needed increase in funding to all Ryan White CARE Act programs, but especially the AIDS Drug Assistance Program, ADAP. A key component to the defense against HIV/AIDS is access to cutting-edge pharmaceutical treatments. These lifesaving medications are often so expensive that they remain out of reach to low-income and uninsured individuals. ADAP bridges that gap and provides antiretroviral drugs and important medical care to over 150,000 people each year. Unfortunately, ADAP's historical underfunding has accumulated to a point where almost \$200 million is needed to meet outstanding need in the program. Congress must commit the necessary resources to meet the entire demand for ADAP's services. We cannot afford to lose the ground we have gained in the fight against HIV/AIDS by restricting access to critical pharmaceutical treatments.

As successful as ADAP has been at keeping individuals healthy and productive, critical gaps in our approach to HIV treatment and prevention remain. For example, HIV positive individuals have access to treatment under Medicaid only after they have developed full-blown AIDS. To remedy this oversight, I introduced the Early Treatment for HIV Act, ETHA, S. 311, along with Senator HILLARY CLINTON. By providing access to HIV therapies and important medical care before such persons develop AIDS, ETHA would reduce overall Medicaid costs and, as important, improve the quality of life of those living with the virus. I ask my colleagues to consider this legislation before the end of this session of Congress, so we can begin saving lives and dollars by increasing access to more effective and efficient HIV/AIDS medical care.

We have much to be proud of on the 25th anniversary of the first reported AIDS case. The virus responsible for the epidemic has been identified; appropriate treatments have been developed as a result of innovative medical research; and governments and other organizations across the globe have committed significant resources to the continued fight against the disease. I am confident that in the near future we will be able to commemorate this day by celebrating the eradication of the pain and suffering that has been caused by HIV/AIDS since its discovery.

ADDITIONAL STATEMENTS

125TH ANNIVERSARY OF HUNTER, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 125th anniversary. On June 17, the residents of Hunter will gather to celebrate their community's history and founding.

Hunter has an interesting past that began with the founding of the city by

John C. Hunter. It was also home to David H. Houston, the inventor of the roll-type film process later to be named Kodak. David subsequently sold the rights to this process to George Eastman from New York.

The Hunter community prides itself on civic involvement. There are numerous clubs to join and activities to partake in. The American Legion Auxiliary and the Albert Wallner Legion Post #44 are just two examples of the many active community clubs in Hunter.

The community has planned a wonderful weekend celebration to commemorate its 125th anniversary. The celebration includes the dedication of the Veterans Memorial, a community parade, an all school reception, a kid's carnival, a dance, local entertainment, and much more.

Mr. President, I ask the Senate to join me in congratulating Hunter, ND, and its residents on their first 125 years and in wishing them well through the next century. By honoring Hunter and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Hunter that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Hunter has a proud past and a bright future.●

100TH ANNIVERSARY OF BINFORD, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 100th anniversary. On June 16-18, the residents of Binford will gather to celebrate their community's history and founding.

Binford is a vibrant community in eastern North Dakota. Settlers arrived in this area around 1877 and a few years later they named the area Blooming Prairie. Binford became the name of the town after the Northern Pacific built a railroad station in the town and named the station after Ray Binford, an Iowa attorney who had great interest in this area.

Today, the citizens of Binford have the following slogan for their town: "The Biggest little town in North Dakota." Binford is also located within the Griggs-Steele Empowerment Zone. This designation provides incentives for existing businesses to expand and other businesses to relocate to the area.

Citizens of Binford have organized numerous activities to celebrate their centennial. Some of the activities include class reunions, street dances, a carnival and parade, a mini-marathon, a memorabilia auction, all-faith services, a Bull-a-Rama, and a demolition derby.

Mr. President, I ask the Senate to join me in congratulating Binford, ND, and its residents on the first 100 years

and in wishing them well through the next century. By honoring Binford and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Binford that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Binford has a proud past and a bright future.●

125TH ANNIVERSARY OF ENGLEVALE, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 125th anniversary. On June 23, the residents of Englevale will gather to celebrate their community's history and founding.

The town of Englevale was founded in 1881 as Marshall, ND, but changed its name to Englevale in 1883. The town was named for Mathias Engle, an avid promoter of the township from New York. Although the town was hit by major fires in the 1930s, Englevale has remained a wonderful community.

Englevale is a small but vibrant town. Most of the farmers in the area grow corn, dry beans and wheat. The Good Shepard Lutheran Church has remained an important anchor in the town for decades.

To celebrate their 125th anniversary, the people of Englevale have planned a number of events, including a tractor pull, rodeo, parade, and an all-town potluck.

Mr. President, I ask the Senate to join me in congratulating Englevale, ND, and its residents on their first 125 years and in wishing them well through the next century. By honoring Englevale and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Englevale that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Englevale has a proud past and a bright future.●

125TH ANNIVERSARY OF CLIFFORD, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 125th anniversary. On June 17, the residents of Clifford, ND, will celebrate their community's history and founding.

Clifford is a small town in the eastern part of North Dakota. Despite its small size, Clifford holds an important place in North Dakota's history. It began in 1881 when the North Pacific Railroad was built in Traill County. Some say it was named for Clifford F. Jacobs of Hillsboro, a promoter of the townsite. Others say it was named for a pioneer settler in the area. The post office was established February 15, 1883,

and George A. Swaren was the first postmaster.

Today, Clifford remains a small but vibrant community. The town organizes a senior citizens league and a 4-H club, and has a very profitable farmers' cooperative. The Traill Rural Water Company, housed in Clifford, helps to provide water for irrigation for all of Traill County. The community has come together in recent years to fix up the town spaces, making it a destination to be proud of.

To celebrate its 125th anniversary, the town of Clifford is organizing a celebration, which will include a parade and a dance with a live band. An all-faith worship service and dinner will also be held. It promises to be a wonderful event.

Mr. President, I ask the Senate to join me in congratulating Clifford, North Dakota, and its residents on their first 125 years and in wishing them well through the next century. By honoring Clifford and all the other historic small towns of North Dakota, we keep the pioneering tradition spirit alive for future generations. It is places such as Clifford that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Clifford has a proud past and a bright future.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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-6969. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a quarterly report on the status of the Commission's licensing activities and regulatory duties for the period covering January-March 2006; to the Committee on Environment and Public Works.

EC-6970. 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 "Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements" (FRL No. 8176-8) received on May 31, 2006; to the Committee on Environment and Public Works.

EC-6971. 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; Michigan" (FRL No. 8176-6) received on May 31, 2006; to the Committee on Environment and Public Works.

EC-6972. 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; Minnesota; Alternative Public Participation Process" (FRL No. 8178-6) received on May 31, 2006; to the Committee on Environment and Public Works.

EC-6973. 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 Maintenance Plan Revisions; Ohio: Carbon Monoxide Maintenance Plan Updates; Limited Maintenance Plan" (FRL No. 8177-8) received on May 31, 2006; to the Committee on Environment and Public Works.

EC-6974. 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 "Control of Air Pollution From Motor Vehicles and Nonroad Diesel Engines: Alternative Low-Sulfur Diesel Fuel Transition Program for Alaska" (FRL No. 8178-3) received on May 31, 2006; to the Committee on Environment and Public Works.

EC-6975. 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 "EPAAR Prescription and Clause—Simplified Acquisition Procedures Financing" (FRL No. 8179-6) received on May 31, 2006; to the Committee on Environment and Public Works.

EC-6976. 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 "Partial Approval of the Clean Air Act, Section 112(I), Delegation of Authority to the Washington State Department of Health" (FRL No. 8177-2) received on May 31, 2006; to the Committee on Environment and Public Works.

EC-6977. 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 "PM2.5 De Minimis Emission Levels for General Conformity Applicability" (FRL No. 8176-3) received on May 31, 2006; to the Committee on Environment and Public Works.

EC-6978. 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 "Regulation of Fuel and Fuel Additives: Refiner and Importer Quality Assurance Requirements for Downstream Oxygenate Blending and Requirements for Pipeline Interface" (FRL No. 8178-5) received on May 31, 2006; to the Committee on Environment and Public Works.

EC-6979. A communication from the Chief, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting, pursuant to

law, the report of a rule entitled "Remarriage of a Surviving Spouse" (RIN2900-AM24) received on May 31, 2006; to the Committee on Veterans' Affairs.

EC-6980. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, the Administration's Minority Small Business and Capital Ownership Development Report for Fiscal Year 2005; to the Committee on Small Business and Entrepreneurship.

EC-6981. 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 "Zoxamide; Pesticide Tolerance" (FRL No. 8060-5) received on May 31, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6982. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Requirements for Requests to Amend Import Regulations" (APHIS Docket No. 02-132-2) received on May 31, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6983. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Emerald Ash Borer; Quarantined Areas; Indiana, Michigan, and Ohio" (Docket No. APHIS-2006-0046) received on May 31, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6984. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Baby Corn and Baby Carrots from Zambia" (Docket No. 05-059-2) received on May 31, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6985. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Additions to Quarantined Areas; Wisconsin" (Docket No. APHIS-2006-0039) received on May 31, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6986. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Standards for Privately Owned Quarantine Facilities for Ruminants" (Docket No. 00-022-2) received on May 31, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6987. A communication from the Director, Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "2005 Section 32 Hurricane Disaster Programs" (RIN0560-AH45) received on May 31, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6988. A communication from the Staff Director, United States Sentencing Commission, transmitting, pursuant to law, the Commission's 2004 Annual Report and Sourcebook of Federal Sentencing Statistics; to the Committee on the Judiciary.

EC-6989. A communication from the Staff Director, United States Sentencing Commission, transmitting, pursuant to law, the Commission's report on the Impact of United States v. Booker on Federal Sentencing; to the Committee on the Judiciary.

EC-6990. A communication from the Chairman, Office of General Counsel, Federal

Election Commission, transmitting, pursuant to law, the report of a rule entitled "Coordinated Communications" (Notice 2006-10) received on June 5, 2006; to the Committee on Rules and Administration.

EC-6991. A communication from the Secretary of Education, transmitting, pursuant to law, the Department of Education's 2005 Buy American Act Report; to the Committee on Health, Education, Labor, and Pensions.

EC-6992. A communication from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" (29 CFR Parts 4022 and 4044) received on May 31, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC-6993. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Soluble Dietary Fiber From Certain Foods and Coronary Heart Disease" (Docket No. 2004P-0512) received on June 5, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC-6994. A communication from the Regulations Coordinator, Health Resources and Services Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Smallpox Vaccine Injury Compensation Program: Administrative Implementation" (RIN0906-AA61) received on May 31, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC-6995. A communication from the Regulations Coordinator, Health Resources and Services Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Smallpox Vaccine Injury Compensation Program: Smallpox (Vaccinia) Vaccine Injury Table" (RIN0906-AA60) received on May 31, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC-6996. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, (8) reports relative to vacancy announcements within the Department, received on May 31, 2006; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 2041. A bill to provide for the conveyance of a United States Fish and Wildlife Service administrative site to the city of Las Vegas, Nevada (Rept. No. 109-260).

By Mr. MCCAIN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2078. A bill to amend the Indian Gaming Regulatory Act to clarify the authority of the National Indian Gaming Commission to regulate class III gaming, to limit the lands eligible for gaming, and for other purposes (Rept. No. 109-261).

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. VITTER:

S. 3378. A bill to suspend temporarily the duty on chloroacetone; to the Committee on Finance.

By Mr. VITTER:

S. 3379. A bill to suspend temporarily the duty on formulations of NOA 446510; to the Committee on Finance.

By Mr. VITTER:

S. 3380. A bill to suspend temporarily the duty on DEMBB distilled-iso tank; to the Committee on Finance.

By Mr. VITTER:

S. 3381. A bill to suspend temporarily the duty on malonic acid-dinitrile 50% NMP; to the Committee on Finance.

By Mr. VITTER:

S. 3382. A bill to provide for the liquidation or reliquidation of certain drawback claims; to the Committee on Finance.

By Mr. VITTER:

S. 3383. A bill to provide for the liquidation or reliquidation of certain drawback claims relating to petroleum products; to the Committee on Finance.

By Mr. VITTER:

S. 3384. A bill to provide for the liquidation or reliquidation of certain drawback claims relating to petroleum products; to the Committee on Finance.

By Mr. VITTER:

S. 3385. A bill to provide for the liquidation or reliquidation of certain drawback claims relating to petroleum products; to the Committee on Finance.

By Mr. VITTER:

S. 3386. A bill to provide for the liquidation or reliquidation of certain drawback claims relating to petroleum products; to the Committee on Finance.

By Mr. VITTER:

S. 3387. A bill to provide for the liquidation or reliquidation of certain drawback claims relating to petroleum products; to the Committee on Finance.

By Mr. VITTER:

S. 3388. A bill to provide for the liquidation or reliquidation of certain drawback claims; to the Committee on Finance.

By Mr. VITTER:

S. 3389. A bill to provide for the liquidation or reliquidation of certain drawback claims; to the Committee on Finance.

By Mr. VITTER:

S. 3390. A bill to provide for the liquidation or reliquidation of certain drawback claims; to the Committee on Finance.

By Mr. VITTER:

S. 3391. A bill to provide for the liquidation or reliquidation of certain drawback claims; to the Committee on Finance.

By Mr. VITTER:

S. 3392. A bill to provide for the liquidation or reliquidation of certain drawback claims; to the Committee on Finance.

By Mr. DEMINT:

S. 3393. A bill to suspend temporarily the duty on certain boys' water resistant pants; to the Committee on Finance.

By Mr. DEMINT:

S. 3394. A bill to suspend temporarily the duty on certain men's water resistant pants; to the Committee on Finance.

By Mr. DEMINT:

S. 3395. A bill to extend the temporary suspension of duty on certain high tenacity rayon filament yarn; to the Committee on Finance.

By Mr. DEMINT:

S. 3396. A bill to suspend temporarily the duty on certain girls' water resistant pants; to the Committee on Finance.

By Mr. DEMINT:

S. 3397. A bill to suspend temporarily the duty on certain women's and girls' water resistant pants; to the Committee on Finance.

By Mr. DEMINT:

S. 3398. A bill to suspend temporarily the duty on synthetic indigo powder; to the Committee on Finance.

By Mr. DEMINT:

S. 3399. A bill to suspend temporarily the duty on Argumex; to the Committee on Finance.

By Mr. DEMINT:

S. 3400. A bill to suspend temporarily the duty on certain men's and boys' water resistant pants; to the Committee on Finance.

By Mr. DEMINT:

S. 3401. A bill to suspend temporarily the duty on certain women's water resistant pants; to the Committee on Finance.

By Mr. DEMINT:

S. 3402. A bill to suspend temporarily the duty on certain girls' water resistant pants; to the Committee on Finance.

By Mr. DEMINT:

S. 3403. A bill to suspend temporarily the duty on certain women's water resistant pants; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. THUNE):

S. 3404. A bill to reauthorize the Mni Wiconi Rural Water Supply Project; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 3405. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in November 15 through December 31, 2003; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3406. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in October 11 through December 31, 2002; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3407. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in January 3 through July 4, 2002; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3408. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in October 21 through November 14, 2003; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3409. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in January 1 through August 29, 2003; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3410. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in August 18 through November 29, 2001; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3411. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in May 1 through July 17, 2004; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3412. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in July 17 through October 30, 2004; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3413. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in November 1 through December 11, 2004; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3414. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in January 3 through April 25, 2004; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3415. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in November 30

through December 31, 2001; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3416. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in July 5 through October 11, 2002; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3417. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in August 30 through October 20, 2003; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3418. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in January 1 through August 18, 2001; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3419. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in December 11 through December 31, 2003; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3420. A bill to provide for the liquidation or reliquidation of certain entries of educational toys entered in September 2 through September 30, 2003; to the Committee on Finance.

By Mr. CRAIG:

S. 3421. A bill to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. MURKOWSKI:

S. 3422. A bill to provide for the tax treatment of income received in connection with the litigation concerning the Exxon Valdez oil spill; to the Committee on Finance.

By Mr. DURBIN:

S. 3423. A bill to liquidate or reliquidate certain entries of roller chain; to the Committee on Finance.

By Mr. DURBIN:

S. 3424. A bill to extend temporarily the suspension of duty on 3-(Ethylsulfonyl)-2-pyridinesulfonamide; to the Committee on Finance.

By Mr. DURBIN:

S. 3425. A bill to suspend temporarily the duty on 2 benzylthio-3-ethyl sulfonyl pyridine; to the Committee on Finance.

By Mr. DURBIN:

S. 3426. A bill to extend temporarily the duty on carbamic acid; to the Committee on Finance.

By Mr. DURBIN:

S. 3427. A bill to suspend temporarily the duty on certain decorative plates; to the Committee on Finance.

By Mr. DURBIN:

S. 3428. A bill to suspend temporarily the duty on certain music boxes; to the Committee on Finance.

By Mr. DURBIN:

S. 3429. A bill to reduce temporarily the duty on sulfentrazone technical; to the Committee on Finance.

By Mr. DURBIN:

S. 3430. A bill to provide for the liquidation or reliquidation of certain bowling ball carrier bag parts; to the Committee on Finance.

By Mr. DURBIN:

S. 3431. A bill to require the liquidation or reliquidation of certain entries of large newspaper printing presses and components thereof; to the Committee on Finance.

By Mr. SANTORUM:

S. 3432. A bill to protect children from exploitation by adults over the Internet, and for other purposes; to the Committee on the Judiciary.

By Ms. LANDRIEU:

S. 3433. A bill for the relief of Michael Anthony Hurley; to the Committee on the Judiciary.

By Mr. BURR:

S. 3434. A bill to suspend temporarily the duty on certain synthetic staple fibers that are carded, combed, or otherwise processed for spinning; to the Committee on Finance.

By Mr. BURR:

S. 3435. A bill to suspend temporarily the duty on acrylic or modacrylic synthetic filament tow; to the Committee on Finance.

By Mr. BURR:

S. 3436. A bill to suspend temporarily the duty on certain synthetic staple fibers that are not carded, combed, or otherwise processed for spinning; to the Committee on Finance.

By Mr. REID:

S. 3437. A bill to suspend temporarily the duty on 1H-Imidazole-4,5-dimethanol, 2-phenyl-(9Cl); to the Committee on Finance.

By Mr. REID:

S. 3438. A bill to suspend temporarily the duty on 1,3,5-Triazine-2,4-diamine, 6-[2-(2-methyl-1H-imidazol-1-yl)ethyl]- (9Cl); to the Committee on Finance.

By Mr. REID:

S. 3439. A bill to suspend temporarily the duty on 50/50 mixture of 1,3,5-Triazine-2,4,6-(1H,3H,5H)-trione, 1,3,5-tris(2R)-oxiranylmethyl-(9Cl) and 1,3,5-Triazine-2,4,6-(1H,3H,5H)-trione, 1,3,5-tris(2S)-oxiranylmethyl-(9Cl); to the Committee on Finance.

By Mr. REID:

S. 3440. A bill to suspend temporarily the duty on 9H-Thioxanthene-2-carboxaldehyde, 9-oxo-, 2-(o-acetyloxime) (9Cl); to the Committee on Finance.

By Mr. REID:

S. 3441. A bill to suspend temporarily the duty on 1-Propenoic acid, polymer with (chloromethyl)oxirane, formaldehyde, 2-(hydroxymethyl)-2-[[[(1-oxo-2-propenyl)oxy]methyl]-1,3-propanediyl di-2-propenoate, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyleyclohexane and 2-methylphenol (9Cl); to the Committee on Finance.

By Mr. REID:

S. 3442. A bill to suspend temporarily the duty on 2-Propenoic acid, reaction products with o-cresol-epichlorohydrin-formaldehyde polymer and 3a,4,7,7a-tetrahydro-1,3-isobenzofurandione; to the Committee on Finance.

By Mr. REID:

S. 3443. A bill to suspend temporarily the duty on 1H-Imidazole, 2-ethyl-4-methyl-(9Cl); to the Committee on Finance.

By Mr. REID:

S. 3444. A bill to suspend temporarily the duty on 1H-Imidazole-4-methanol, 5-methyl-2-phenyl-(9Cl); to the Committee on Finance.

By Mr. REID:

S. 3445. A bill to suspend temporarily the duty on epoxide resins consisting of Formaldehyde, polymer with methylphenol, 2-hydroxy-3-[[[(1-oxo-2-propenyl)oxy]propyl ether and formaldehyde, polymer with (chloromethyl)oxirane and methylphenol, 4-cyclohexene-1,2-dicarboxylate 2-propenoate (9Cl); to the Committee on Finance.

By Mr. REID:

S. 3446. A bill to suspend temporarily the duty on 4-Cyclohexene-1,2-dicarboxylic acid, compd. with 1,3,5-triazine-2,4,6-triamine (1:1); to the Committee on Finance.

By Mr. REID:

S. 3447. A bill to suspend temporarily the duty on 2-Propenoic acid, polymer with (chloromethyl)oxirane, formaldehyde and phenol, hydrogen 4-cyclohexene-1,2-dicarboxylate; to the Committee on Finance.

By Mr. REID:

S. 3448. A bill to suspend temporarily the duty on Formaldehyde, polymer with (chloromethyl)oxirane and 2-methylphenol, 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoate 2-propenoate, 4-

cyclohexene-1,2-dicarboxylate (9Cl); to the Committee on Finance.

By Mr. DODD:

S. 3449. A bill to amend the Public Health Service Act to improve the quality and availability of mental health services for children and adolescents; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID:

S. 3450. A bill to suspend temporarily the duty on Oxirane, 2,2'-[(3,3',5,5'-tetramethyl[1,1'-biphenyl]-4,4'-diyl)bis(oxyethylene)bis-(9Cl); to the Committee on Finance.

By Mr. REID:

S. 3451. A bill to suspend temporarily the duty on 1,3,5-Triazine-2,4-diamine, 6-[2-(2-undecyl-1H-imidazol-1-yl)ethyl]- (9Cl); to the Committee on Finance.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 3452. A bill to modify the provisions of the Harmonized Tariff Schedule of the United States relating to returned property; to the Committee on Finance.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 3453. A bill to provide for duty free treatment for certain United States Government property returned to the United States; to the Committee on Finance.

By Mr. BROWNBAC (for himself and Mr. TALENT):

S. 3454. A bill to amend the Internal Revenue Code of 1986 to improve the exchange of healthcare information through the use of technology, to encourage the creation, use and maintenance of lifetime electronic health records that may contain health plan and debit card functionality in independent health record banks, to use such records to build a nationwide health information technology infrastructure, and to promote participation in health information exchange by consumers through tax incentives and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 3455. A bill to establish a program to transfer surplus computers of Federal agencies to schools, nonprofit community-based educational organizations, and families of members of the Armed Forces who are deployed, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. MENENDEZ:

S. 3456. A bill to ensure the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States; to the Committee on Foreign Relations.

By Mrs. BOXER:

S.J. Res. 39. A joint resolution to spur a political solution in Iraq and encourage the people of Iraq to provide for their own security through the redeployment of the United States military forces; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBAC (for himself, Mr. BIDEN, Mr. SMITH, and Mr. NELSON of Florida):

S. Res. 500. A resolution expressing the sense of Congress that the Russian Federation should fully protect the freedoms of all religious communities without distinction, whether registered or unregistered, as stipulated by the Russian Constitution and international standards; to the Committee on Foreign Relations.

By Mr. ALLEN (for himself and Mr. WARNER):

S. Res. 501. A resolution commending the University of Virginia Cavaliers men's lacrosse team for winning the 2006 National Collegiate Athletic Association Division I National Lacrosse Championship; considered and agreed to.

By Mr. LAUTENBERG (for himself and Mr. MENENDEZ):

S. Res. 502. A resolution congratulating all the contestants of the 2006 Scripps National Spelling Bee; considered and agreed to.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 424

At the request of Mr. BOND, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 713

At the request of Mr. ROBERTS, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 811

At the request of Mr. DURBIN, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Nevada (Mr. ENSIGN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Utah (Mr. HATCH), the Senator from Virginia (Mr. ALLEN), the Senator from North Carolina (Mrs. DOLE), the Senator from Maine (Ms. SNOWE), the Senator from South Dakota (Mr. THUNE), the Senator from Utah (Mr. BENNETT), the Senator from Wyoming (Mr. THOMAS), the Senator from South Carolina (Mr. DEMINT), the Senator from Virginia (Mr. WARNER), the Senator from Kansas (Mr. ROBERTS), the Senator from Alaska (Mr. STEVENS), the Senator from Idaho (Mr. CRAIG), the Senator from Colorado (Mr. ALLARD), the Senator from Louisiana (Mr. VITTER), the Senator from Florida (Mr. MARTINEZ), the Senator from Minnesota (Mr. COLEMAN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Texas (Mrs. HUTCHISON), the Senator from Missouri (Mr. BOND),

the Senator from Mississippi (Mr. LOTT) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 843

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 843, a bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education.

S. 1840

At the request of Mr. THUNE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1840, a bill to amend section 340B of the Public Health Service Act to increase the affordability of inpatient drugs for Medicaid and safety net hospitals.

S. 1862

At the request of Mr. JOHNSON, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1862, a bill to establish a joint energy cooperation program within the Department of Energy to fund eligible ventures between United States and Israeli businesses and academic persons in the national interest, and for other purposes.

At the request of Mr. SMITH, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1862, *supra*.

S. 2155

At the request of Mr. KERRY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2155, a bill to provide meaningful civil remedies for victims of the sexual exploitation of children.

S. 2302

At the request of Mr. LOTT, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 2302, a bill to establish the Federal Emergency Management Agency as an independent agency, and for other purposes.

S. 2351

At the request of Mrs. BOXER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2351, a bill to provide additional funding for mental health care for veterans, and for other purposes.

S. 2419

At the request of Mr. STEVENS, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2419, a bill to ensure the proper remembrance of Vietnam veterans and the Vietnam War by providing a deadline for the designation of a visitor center for the Vietnam Veterans Memorial.

S. 2491

At the request of Mr. CORNYN, the name of the Senator from Nebraska

(Mr. HAGEL) was added as a cosponsor of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2548

At the request of Mr. STEVENS, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Indiana (Mr. BAYH), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 2548, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

S. 2566

At the request of Mr. LUGAR, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Utah (Mr. BENNETT) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2566, a bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

S. 2592

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2592, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of "food of minimal nutritional value" to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

S. 2599

At the request of Mr. VITTER, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 2599, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to prohibit the confiscation of firearms during certain national emergencies.

S. 2653

At the request of Mr. STEVENS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2653, a bill to direct the Federal Communications Commission to make efforts to reduce telephone rates for Armed Forces personnel deployed overseas.

S. 2658

At the request of Mr. LEAHY, the names of the Senator from California (Mrs. BOXER) and the Senator from Connecticut (Mr. DODD) were added as cosponsors 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. 2725

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2725, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal Minimum wage and to ensure that increases in the Federal minimum wage keep pace with any pay adjustments for Members of Congress.

S. 2810

At the request of Mr. GRASSLEY, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 2810, a bill to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling program and area agencies on aging, and for other purposes.

S. 2816

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. COLEMAN) was withdrawn as a cosponsor of S. 2816, a bill to amend the Internal Revenue Code of 1986 to provide an income tax credit for the manufacture of flexible fuel motor vehicles and to extend and increase the income tax credit for alternative fuel refueling property, and for other purposes.

S. 2824

At the request of Mr. DEMINT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2824, a bill to reduce the burdens of the implementation of section 404 of the Sarbanes-Oxley Act of 2002.

S. 2999

At the request of Mr. DEWINE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2999, a bill to improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.

S. 3255

At the request of Mrs. CLINTON, the names of the Senator from California (Mrs. BOXER), the Senator from Massachusetts (Mr. KERRY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 3255, a bill to provide student borrowers with basic rights, including the right to timely information about their loans and the right to make fair and reasonable loan payments, and for other purposes.

S. 3275

At the request of Mr. ALLEN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 3275, a bill to amend title 18, United States code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State.

S. 3323

At the request of Mr. MENENDEZ, the name of the Senator from New Jersey

(Mr. LAUTENBERG) was added as a cosponsor of S. 3323, a bill to suspend temporarily the duty on Propylene Glycol Alginates (PGA) be eliminated.

S. 3325

At the request of Mr. BUNNING, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 3325, a bill to promote coal-to-liquid fuel activities.

S.J. RES. 1

At the request of Mr. ALLARD, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 20

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. Con. Res. 20, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and support for the designation of a National Brain Injury Awareness Month.

S. RES. 224

At the request of Mr. DEWINE, the name of the Senator from Massachusetts (Mr. KERRY) 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.

S. RES. 462

At the request of Mr. GRASSLEY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 462, a resolution designating June 8, 2006, as the day of a National Vigil for Lost Promise.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG:

S. 3421. A bill to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007, and for other purposes; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, I seek recognition today to introduce legislation to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs, VA. Most VA hospitals, clinics, nursing homes, and research facilities have ongoing needs for maintenance, repair, and modernization to promote patient and employee safety and provide a higher standard of care for our Nation's veterans. Earlier this month, I held a hearing of the Senate Committee on Veterans' Affairs on these needs, at which VA and a service organization representative delivered testimony about what is required in the next phase of addressing the needs of health care facilities for our Nation's veterans. In addition, several committee members and noncommittee colleagues remarked about the signifi-

cance of these projects to their States. It is my belief that this bill will expand VA's ability to provide health care services to this group of deserving Americans. I will take a few moments now to explain the provisions of this legislation.

First, the bill authorizes three major medical facility projects in immediate need of fiscal year 2006 authorization; the restoration of VA's health care infrastructure in the Biloxi and New Orleans areas following Hurricane Katrina, and the cost of land acquisition for replacement of the current Denver VA Medical Center with a new facility at the former Fitzsimons Army Medical Center. The Denver facility was constructed over a half-century ago and many of the core facilities have been deemed to be past or near the end of their useful life.

Second, this legislation reauthorizes 18 major medical facility construction projects that were authorized under Public Law 108-170, but for which it is unlikely that contract awards will be accomplished by September 30, 2006, as required by that law. Therefore, for each of these projects, the draft bill extends the date by which contracts must be awarded, from September 30, 2006, September 20, 2009. These projects were identified and prioritized under the capital asset realignment for enhanced services process. CARES, as it has become known, is a market-based national assessment of infrastructure needs that VA has developed into a schedule for completion. These projects represent the most pressing CARES-identified needs that VA has undertaken in order to improve access-to-care and provide services in areas of recent, current, and projected growth in veterans population, such as Las Vegas and Orlando. To allow a lapse in VA's authority to move forward on these projects would result in tremendous setbacks, and conceivably, additional taxpayer expense.

Third, the legislation authorizes major medical facility leases that did not receive authorization in the current fiscal for outpatient clinics in Baltimore, MD, Marion, IL, and the Dallas, TX, area. In addition, five major medical facility leases fiscal year 2007 are included for outpatient clinics in Austin, TX, Lowell, MA, Grand Rapids, MI, Las Vegas, NV, and Parma, OH.

This legislation represents the administration's request of the Veterans' Affairs Committee and the Congress, with a significant exception. I have chosen not to authorize the six requested fiscal year 2007 major medical facility construction projects at this time. I want to make it clear to my colleagues that my intent is not to micromanage VA's construction budget or to delay the Department's capital plan. And no one in the Senate is more committed to seeing that we are not diverting important resources away from facilities that are extremely important to our veterans. But as chairman of this committee, my approach

puts Congress on record as expecting progress with the 18 CARES projects on which we are extending authorizations, attaching a reasonable amount of money to those efforts, and then monitoring the progress closely from the Veterans' Committee. As we have seen with the need for significant and expensive Katrina-related construction, VA's capital plan requires consistent monitoring, frequent review and, at times, significant modification. But VA must finish some of what it has started before taking on new major projects.

Over the next several weeks, the Committee on Veterans' Affairs will be taking up this bill and other legislation introduced to improve the range of services and benefits available to our Nation's veterans. I look forward to working with my colleagues throughout the rest of this Congress on these and other important efforts.

Mr. President, 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. 3421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2006, with each project to be carried out in the amount specified for that project:

(1) Restoration, new construction or replacement of the medical center facility for the Department of Veterans Affairs Medical Center, New Orleans, Louisiana, due to damage from Hurricane Katrina in an amount not to exceed \$675,000,000.

(2) Restoration of the Department of Veterans Affairs Medical Center, Biloxi, Mississippi, and consolidation of services performed at the Department of Veterans Affairs Medical Center, Gulfport, Mississippi, in an amount not to exceed \$310,000,000.

(3) Replacement of the Department of Veterans Affairs Medical Center, Denver, Colorado, in an amount not to exceed \$52,000,000.

SEC. 2. EXTENSION OF AUTHORIZATION FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS AUTHORIZED UNDER CAPITAL ASSET REALIGNMENT INITIATIVE.

Notwithstanding subsection (d) of section 221 of the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 (Public Law 108-170; 117 Stat. 2050), the Secretary of Veterans Affairs may enter into contracts before September 30, 2009, to carry out each major medical facility project, as originally authorized by such section 221, as follows with each project to be carried out in the amount specified for that project:

(1) Construction of an outpatient clinic and regional office at the Department of Veterans Affairs Medical Center, Anchorage, Alaska, in an amount not to exceed \$75,270,000.

(2) Consolidation of clinical and administrative functions of the Department of Veterans Affairs Medical Center in Cleveland, Ohio, and the Department of Veterans Affairs Medical Center in Brecksville, Ohio, in an amount not to exceed \$102,300,000.

(3) Construction of the Extended Care Building at the Department of Veterans Af-

fairs Medical Center in Des Moines, Iowa, in an amount not to exceed \$25,000,000.

(4) Renovation of patient wards at the Department of Veterans Affairs Medical Center in Durham, North Carolina, in an amount not to exceed \$9,100,000.

(5) Correction of patient privacy deficiencies at the Department of Veterans Affairs Medical Center, Gainesville, Florida, in an amount not to exceed \$85,200,000.

(6) 7th and 8th Floor Wards Modernization addition at the Department of Veterans Affairs Medical Center, Indianapolis, Indiana, in an amount not to exceed \$27,400,000.

(7) Construction of a new Medical Center Facility at the Department of Veterans Affairs Medical Center, Las Vegas, Nevada, in an amount not to exceed \$406,000,000.

(8) Construction of an Ambulatory Surgery/Outpatient Diagnostic Support Center in the Gulf South Submarket of Veterans Integrated Service Network (VISN) 8 and completion of Phase I land purchase, Lee County, Florida, in an amount not to exceed \$65,100,000.

(9) Seismic Corrections-Buildings 7 & 126 at the Department of Veterans Affairs Medical Center, Long Beach, California, in an amount not to exceed \$107,845,000.

(10) Seismic Corrections-Buildings 500 & 501 at the Department of Veterans Affairs Medical Center, Los Angeles, California, in an amount not to exceed \$79,900,000.

(11) Construction of a New Medical Center facility in the Orlando, Florida, area in an amount not to exceed \$377,700,000.

(12) Consolidation of Campuses at the University Drive and H. John Heinz III divisions, Pittsburgh, Pennsylvania, in an amount not to exceed \$189,205,000.

(13) Ward Upgrades and Expansion at the Department of Veterans Affairs Medical Center, San Antonio, Texas, in an amount not to exceed \$19,100,000.

(14) Seismic Corrections-Building 1, Phase 1 Design at the Department of Veterans Affairs Medical Center, San Juan, Puerto Rico, in an amount not to exceed \$15,000,000.

(15) Construction of a Spinal Cord Injury Center at the Department of Veterans Affairs Medical Center, Syracuse, New York, in an amount not to exceed \$53,900,000.

(16) Upgrade Essential Electrical Distribution Systems at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed \$49,000,000.

(17) Expansion of the Spinal Cord Injury Center addition at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed \$7,100,000.

(18) Blind Rehabilitation and Psychiatric Bed renovation and new construction project at the Department of Veterans Affairs Medical Center, Temple, Texas, in an amount not to exceed \$56,000,000.

SEC. 3. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2006 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient clinic, Baltimore, Maryland, \$10,908,000.

(2) For an outpatient clinic, Evansville, Illinois, \$8,989,000.

(3) For an outpatient clinic, Smith County, Texas, \$5,093,000.

SEC. 4. AUTHORIZATION OF FISCAL YEAR 2007 MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2007 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient and specialty care clinic, Austin, Texas, \$6,163,000.

(2) For an outpatient clinic, Lowell, Massachusetts, \$2,520,000.

(3) For an outpatient clinic, Grand Rapids, Michigan, \$4,409,000.

(4) For up to four outpatient clinics, Las Vegas, Nevada, \$8,518,000.

(5) For an outpatient clinic, Parma, Ohio, \$5,032,000.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006 MAJOR MEDICAL FACILITY PROJECTS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2006 for the Construction, Major Projects, account, \$1,606,000,000 for the projects authorized in section 1.

(b) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY PROJECTS UNDER CAPITAL ASSET REALIGNMENT INITIATIVE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2007 for the Construction, Major Projects, account, \$1,750,120,000 for the projects whose authorization is extended by section 2.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until September 30, 2009.

(c) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY LEASES.—

(1) FISCAL YEAR 2006 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2006 for the Medical Care account, \$24,990,000 for the leases authorized in section 4.

(2) FISCAL YEAR 2007 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2007 for the Medical Care account, \$26,642,000 for the leases authorized in section 5.

(d) LIMITATION.—The projects authorized in sections 1 and 2 may only be carried out using—

(1) funds appropriated for fiscal year 2006 or 2007 pursuant to the authorization of appropriations in subsections (a), (b), and (c) of this section;

(2) funds available for Construction, Major Projects, for a fiscal year before fiscal year 2006 that remain available for obligation;

(3) funds available for Construction, Major Projects, for a fiscal year after fiscal year 2006 or 2007 that are available for obligation; and

(4) funds appropriated for Construction, Major Projects, for fiscal year 2006 or 2007 for a category of activity not specific to a project.

By Ms. MURKOWSKI:

S. 3422. A bill to provide for the tax treatment of income received in connection with the litigation concerning the *Exxon Valdez* oil spill; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will help the commercial fishermen and others whose livelihoods were negatively impacted by the *Exxon Valdez* oilspill.

As all of us know, the *Exxon Valdez* ran aground on March 23, 1989, spilling 11 million gallons of oil into Prince William Sound in Alaska. A class action jury trial was held in Federal court in Anchorage, AK, in 1994. The plaintiffs included 32,000 fishermen among others whose livelihoods were gravely affected by this disaster. The jury awarded \$5 billion in punitive

damages to the plaintiff class. The punitive damage award has been on repeated appeal by the Exxon Corporation since 1994. Many of the original plaintiffs, possibly more than 1,000 people, have already died.

Once the punitive damage award of the *Exxon Valdez* litigation is settled, many fishermen will receive payments to reimburse them for fishing income lost due to the environmental consequences of the *Exxon Valdez* oilspill. It is estimated that the eventual settlement could be \$6.75 billion or more.

My bill gives the affected fishermen, as well as other plaintiffs in this case, a fair shake when it comes to contributions to retirement plans and averaging of income for tax purposes.

With respect to retirement plan contributions, my bill increases the caps on both deductions and income for traditional IRAs to the extent of the income a plaintiff receives from the settlement or judgment. Also, it allows the plaintiffs to make contributions to Roth IRAs and other retirement plans to the extent of the income received from the settlement or judgment.

Fishermen are currently allowed to average their income over a several year period due to the often inconsistent nature of the fishing business. The litigation stemming from the *Exxon Valdez* oilspill poses an even more unique situation since fishermen and other plaintiffs have been waiting to receive lost income—in the form of a settlement or judgment—for 12 years. My bill allows plaintiffs to average their income for the period of time between December 31 of the year they receive the settlement or judgment payment and January 1, 1994—the year of the original jury award in Federal court.

It is imperative that we address this important issue soon. The Exxon Corporation has appealed this case and a decision is expected later this year.

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. 3422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF INCOME RECEIVED IN CONNECTION WITH THE EXXON VALDEZ LITIGATION.

(a) INCOME AVERAGING OF AMOUNTS RECEIVED FROM THE EXXON VALDEZ LITIGATION.—

(1) IN GENERAL.—At the election of a qualified taxpayer who receives qualified settlement income during a taxable year, the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for such taxable year shall be equal to the sum of—

(A) the tax which would be imposed under such chapter if—

(i) no amount of elected qualified settlement income were included in gross income for such year, and

(ii) no deduction were allowed for such year for expenses (otherwise allowable as a deduction to the taxpayer for such year) at-

tributable to such elected qualified settlement income, plus

(B) the increase in tax under such chapter which would result if taxable income for each of the years in the applicable period were increased by an amount equal to the applicable fraction of the elected qualified settlement income reduced by any expenses (otherwise allowable as a deduction to the taxpayer) attributable to such elected qualified settlement income.

Any adjustment under this section for any taxable year shall be taken into account in applying this section for any subsequent taxable year.

(2) COORDINATION WITH FARM INCOME AVERAGING.—If a qualified taxpayer makes an election with respect to any qualified settlement income under paragraph (1) for any taxable year, such taxpayer may not elect to treat such amount as elected farm income under section 1301 of the Internal Revenue Code of 1986.

(3) DEFINITIONS.—For purposes of this subsection—

(A) APPLICABLE PERIOD.—The term “applicable period” means the period beginning on January 1, 1994, and ending on December 31 of the year in which the elected qualified settlement income is received.

(B) APPLICABLE FRACTION.—The term “applicable fraction” means the fraction the numerator of which is one and the denominator of which is the number of years in the applicable period.

(C) ELECTED QUALIFIED SETTLEMENT INCOME.—The term “elected qualified settlement income” means so much of the taxable income for the taxable year which is—

(i) qualified settlement income, and

(ii) specified under the election under paragraph (1).

(b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Any qualified taxpayer who receives qualified settlement income during the taxable year may, at any time before the end of the taxable year in which such income was received, make one or more contributions to an eligible retirement plan of which such qualified taxpayer is a beneficiary in an aggregate amount not to exceed the amount of qualified settlement income received during such year.

(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraph (1), a qualified taxpayer shall be deemed to have made a contribution to an eligible retirement plan on the last day of the taxable year in which such income is received if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(3) TREATMENT OF CONTRIBUTIONS TO ELIGIBLE RETIREMENT PLANS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income, then—

(A) except as provided in paragraph (4)—

(i) to the extent of such contribution, the qualified settlement income shall not be included in taxable income, and

(ii) for purposes of section 72 of such Code, such contribution shall not be considered to be investment in the contract, and

(B) the qualified taxpayer shall, to the extent of the amount of the contribution, be treated—

(i) as having received the qualified settlement income—

(I) in the case of a contribution to an individual retirement plan (as defined under section 7701(a)(37) such Code), in a distribution described in section 408(d)(3) of such Code, and

(II) in the case of any other eligible retirement plan, in an eligible rollover distribution (as defined under section 402(f)(2) of such Code), and

(ii) as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(4) SPECIAL RULE FOR ROTH IRAS AND ROTH 401(k)s.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income to a Roth IRA (as defined under section 408A(b) of such Code) or as a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code), then—

(A) the qualified settlement income shall be includible in taxable income, and

(B) for purposes of section 72 of such Code, such contribution shall be considered to be investment in the contract.

(5) ELIGIBLE RETIREMENT PLAN.—For purpose of this subsection, the term “eligible retirement plan” has the meaning given such term under section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(c) QUALIFIED SETTLEMENT INCOME NOT INCLUDED IN SECA.—For purposes of chapter 2 of the Internal Revenue Code of 1986 and section 211 of the Social Security Act, no portion of qualified settlement income shall be treated as gross income derived from a trade or business carried on by a qualified taxpayer.

(d) QUALIFIED TAXPAYER.—For purposes of this section, the term “qualified taxpayer” means any plaintiff in the civil action *In re Exxon Valdez*, No. 89-095-CV (HRH) (Consolidated) (D. Alaska).

(e) QUALIFIED SETTLEMENT INCOME.—For purposes of this section, the term “qualified settlement income” means income received (whether as lump sums or periodic payments) in connection with the civil action *In re Exxon Valdez*, No. 89-095-CV (HRH) (Consolidated) (D. Alaska).

By Mr. SANTORUM:

S. 3432. A bill to protect children from exploitation by adults over the Internet, and for other purposes; to the Committee on the Judiciary.

Mr. SANTORUM. Mr. President, over the past few years, we have heard the tragic stories of how sexual predators have targeted children in our states. We have seen troubling headlines from Pennsylvania and across the country, and the frequency seems to be increasing rather than decreasing. The National Center for Missing and Exploited Children in partnership with the Federal Bureau of Investigation, Bureau of Immigration and Customs Enforcement, U.S. Secret Service, U.S. Postal Inspection Service, state and local law enforcement, and Internet Crimes Against Children Task Forces operates the CyberTipline. The number of referrals to the ICAC task forces has increased from 2,002 referrals in January-March 2005 to 3,392 referrals in January-March 2006. Additionally, the prosecutions in child pornography and child abuse cases have increased nearly every year since 1995.

Recently Congress has heard disturbing and saddening accounts of how these predators have used the Internet to exploit our children. As a father of six, I am keenly aware of the dangers

to our children and the concerns of parents across Pennsylvania and the Nation. In February, the Department of Justice launched Project Safe Childhood, a initiative to “combat the proliferation of technology-facilitated sexual exploitation crimes against children.”

“Project Safe Childhood” has five main purposes. First, it seeks to integrate Federal, State, and local efforts to investigate and prosecute child exploitation cases including partnerships by each U.S. Attorney with each Internet Crimes Against Children Task Force in their district, other Federal, State, and local law enforcement, and community and faith-based organizations to develop district-specific strategic plans to combat and prosecute child exploitation crimes. Second, the Project allows major case coordination by the Department of Justice or other appropriate Federal agency. Third, it increases Federal involvement in child exploitation cases by providing additional investigative tools and increased penalties available under Federal law. Fourth, the Project provides increased training of Federal, State, and local law enforcement regarding the investigation and prosecution of computer-facilitated crimes against children. Finally, it promotes community awareness and educational programs to raise national awareness about the threat of online sexual predators and to provide information to families on how to report possible violations.

According to recent Congressional testimony from Alice S. Fisher, Assistant U.S. Attorney in charge of the Criminal Division, and from William W. Mercer, Principle Associate Deputy Attorney General noted, this initiative is working.

On May 17, 2006, the Department of Justice released a document that outlines the need for this project, an overview of the program and guides for how law enforcement, parents, teachers, and communities can come together to implement this program effectively. While I am encouraged by the DOJ actions to raise the profile and enforcement through Project Safe Childhood—and appreciate all that many at the Department of Justice and the State and local levels are doing to catch and prosecute these predators—I am concerned that this program does not have the legislative authorization or dedicated funding that it needs to accomplish its goal of protecting our children.

I intend to work to help the Department of Justice fully implement and expand this initiative, therefore, I am introducing the Project Safe Childhood Authorization Act. Specifically, the bill will authorize and expand Project Safe Childhood; add new elements regarding child exploitation crimes that have been requested by the Department of Justice to strengthen the requirements to effectively report child pornography, require warning labels on commercial Websites that contain sex-

ually explicit material, and prohibit the embedding of words or images on a Website in order to deceive individuals into viewing obscenity or material harmful to minors; increase penalties for registered sex offenders, child sex trafficking and sexual abuse, and other child exploitation crimes; create Children’s Safety Online Awareness Campaigns; and authorize grants for online child safety programs.

The bill authorizes \$18 million for fiscal year 2007 for the initial implementation of Project Safe Childhood, and up to \$29 million for the expansion of the program for fiscal year 2007, and such sums as may be necessary for each of the 5 succeeding fiscal years.

I know all of us—particularly those of us with children—want to know how to keep our children safe, and want to know that anyone that endangers or harms our children will be punished. I am glad to be here to take this important step in protecting our children. I hope my colleagues will agree with me and we will pass the Project Safe Childhood Authorization Act this year.

By Mr. DODD:

S. 3449. A bill to amend the Public Health Service Act to improve the quality and availability of mental health services for children and adolescents; to the Committee on Health, Education, Labor, and Pensions,

Mr. DODD. Mr. President, I rise to introduce legislation that seeks to meet the mental health needs of children and adolescents.

I believe that the task of ensuring the emotional well-being and resiliency of our young people is one of paramount importance. We all know that mental health is a critical component contributing to a child’s general health and ability to grow—both intellectually and physically. Yet, the task of ensuring the mental health of children and adolescents is not an easy one. In fact, it is arguably one of the most difficult and largely unspoken tasks facing our Nation today.

According to the Substance Abuse and Mental Health Services Administration, one in ten children and adolescents suffers from mental health disorders serious enough to cause some level of impairment. Out of these young people, only one in five receives the specialty mental health services they require.

These startling statistics prompted former Surgeon General Dr. David Satcher to convene a conference in 1999 that examined the mental health needs of children. The conference—composed of some of the Nation’s leading experts in mental and public health—published a seminal report that concluded that “. . . the burden of suffering experienced by children with mental illness and their families has created a health crisis in this country.” The report further concluded that “. . . there is broad evidence that the Nation lacks a unified infrastructure to help children suffering from mental illness.”

I would like to submit for the RECORD personal testimony offered by three families in Connecticut. I believe their words and experiences speak most directly to the “burden of suffering” described in Surgeon General Satcher’s report—a burden endured by millions of children, adolescents, and then families nationwide. I ask unanimous consent that this testimony be printed in the RECORD.

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

TESTIMONY

DEAR SENATOR DODD, I wanted to take a moment to share with you what my experience has been navigating services for my son who has been diagnosed with severe psychosis and bipolar disorder. Due to the lack of psychiatric services when the extended day program my son attended was closed down, my son as well as seven other kids were left without the services they so needed. After a couple of weeks they started to have meltdowns. My son was one of them. The fact that he attended a therapeutic school didn’t at this point make a difference. After two short hospitalizations (one was for two weeks the other four weeks) my son, who is 12 years old, has been sitting at [a mental health services facility] for the past 9 weeks awaiting availability for sub-acute care. In the meantime he is not receiving the level of care that he needs.

Services are so limited at this point in time that because of time of delivery children who may have benefitted from less intensive intervention are being put in a position where by the time they receive care they are in need of higher level care that to me doesn’t seem very cost effective when you look at long term care. I often think about what would be different if my child was diabetic. Would he only receive services when available, and would they be appropriate to his medical needs?

I can’t explain in one letter what my son’s illness has done to our family and how difficult it is for all of us. Mental Health is a cruel monster who enters your life in sometimes undetected ways and when it finally attacks the blow can be fatal. The media has succeeded in painting a picture of individuals like my son as real dangers to society if not in proper treatment but what they have failed to shed light on is the lack of such services. My son deserves a better quality of services as well as a better quality of life.

DEAR SENATOR DODD, The following is to share some of what my family is struggling with due to my son’s mental illness. My son has been diagnosed with severe depression and mood disorder; he has mutilated himself various times and is a cutter. [My son] has been hospitalized three times due to this ongoing behavior; he is in need of sub-acute treatment but has only received stabilization services and out-patient services because the level of treatment that he needs is not available for boys 14 years or older. In the meantime we have extended day programs, voluntary services as well as systems of care in place yet the services he needs are not available. For a mother with three additional children with special needs I have serious concerns for my son’s safety. Who will be accountable if at some point my son succeeds in taking his own life when I have sought services and I am told over and over again that they are not available?

I really would like Congress to take a look at the great deal of families fighting our own personal battles with these unseen enemies.

We need weapons if we are to win these battles. We need more psychiatric services made available to all of our children regardless of age or gender.

SENATOR DODD, My son was always “different,” “difficult,” and “didn’t socialize well with the other children,” according to the daycare centers, camps, after school programs and even in the early part of kindergarten. His kindergarten school teacher was concerned enough to refer us to the school social worker when he held a plastic knife up to a fellow classmates throat and said he was going to slit it. She suggested parenting classes and perhaps family therapy. Since it was only my son and I as I was divorced and his father was not in the picture, of course I eagerly complied. I brought him to his pediatrician as well, who suggested behavior modification and consistency. No one was more consistent than I was a parent. I learned this early on with my son.

I sat through hours of parenting tapes, learning nothing new, while my son played with Legos and puppets. This service was on a sliding fee scale offered by our town and even so all I could afford to go was every other week. When my son was seven years old I woke up in the wee hours of the morning to find him standing in the middle of the kitchen surrounded by knives holding onto one in each hand. Although I was shocked and more scared than I had ever been in my entire life I instinctively knew I had to stay calm, that this was something beyond his control. I asked him what he was doing up, maintaining eye contact, and he said that there was a devil on one side telling him to hurt himself and an angel on the other telling him not to. I gathered up the knives as he was talking and spoke gently to my son who was so clearly in such pain. He gave me the knives without even realizing he was doing it, and I scooped him up and we waited for his psychiatrist’s office to open. He had been seeing a psychiatrist for 6 months or so, and was on stimulants for ADHD (the first diagnosis of choice as usual for children).

The doctor immediately added depression with psychotic features as another diagnosis and suggested hospitalization. The first of many hospitalizations my son would experience and the doctor also added an antipsychotic and antidepressant medication to the regiment. My son was in the hospital for 10 days and was no better, so additional diagnoses were added, oppositional defiant disorder, impulse control disorder and anxiety disorder as well as more medications. He started individual therapy regularly, seeing the psychiatrist and along with the medications the co-pays were more than I could afford, I applied for HUSKY. I was accepted, thankfully I thought at the time.

My son was rapidly becoming worse, so I went to the Department of Children and Families for help through Voluntary Services. This is insulting to caring parents trying to find help for their children as the request has to be made via the Hotline and is an embarrassment. However, it is the only way to gain access to certain services in the State that are not offered through private insurance companies. By now, my son is almost ten years old and has been hospitalized many times, in several partial hospitalizations, intensive outpatient hospitalization programs and extended day treatment programs. He has also been removed from the public school systems special education program and out-placed into a therapeutic day program for school out of district.

I made a call to the head of a psychiatric unit at a hospital who I had come to know through my work to ask for a referral for my son as I thought perhaps this was something more than what the doctors were saying. He

referred me to Mass. General’s Pediatric Psychopharmacology Unit. I called, my son was seen within 3 weeks and a diagnosis of Early Onset Bipolar Disorder as well as Major Multiple Anxiety Disorder was given. My son had already had an appointment with a new psychiatrist within the next couple of weeks and medications were changed to reflect the new diagnosis—unfortunately, too little too late.

My son, ended up in the hospital for 3 months and then in a sub-acute unit 4½ months, despite all of the in-home services we had on board, partially because the waiting time between services were detrimental and the length of the services were not long enough. When the service finally started to work, it was time to pull out. My son never engaged in any service because he knew if he got attached to anyone they were going to be gone in a short time anyway and his attitude was why bother? I can’t say I blamed him. For a child who needed consistency in his life there wasn’t a lot of it with the providers. He went to a residential setting for 18 months following the sub-acute unit and finally came back home. On his last day at the residential treatment center he was assaulted by a staff member who was found guilty and fired. At the same time, HUSKY notified me, that my premium would increase to 221.00 per month as I was over the income limit by 200.00 for a family of 2. I called and tried to plead my case, as they were unaware of my living expenses, such as rent, past medical bills I was trying to catch up on, etc. but they go by gross income and don’t take into account any other issues. I placed my son on my work insurance once again. Try as I might, I ended up filing for bankruptcy two years later, the ultimate embarrassment as far as I was concerned.

When my son came home, the discharge plan was to send him to a summer program called the Wilderness School for the summer. Unbeknownst to us this program was for juvenile delinquents who were in trouble with the law for the majority of their lives and in and out of the system. My son was petrified, and refused to stay, even saying he would hurt himself if they made him stay. I picked him up 1½ days after dropping him off and scrambled to find childcare for the summer once again.

Whether a family uses their own insurance or State insurance and services, it is a catch 22. With private insurance, services are extremely limited; both time limited and the type of service that is available is limited. With HUSKY, finding providers is extremely difficult. There are no specialists that will take HUSKY patients, dentists, orthodontists, neuropsychologists, psychiatrists, therapists and the list goes on. As a parent trying to do the best for her child it was very frustrating getting the door shut in my face no matter where I turned for help. All I wanted was to get my son the medical attention he so desperately needed, and I had to fight for everything. In an already traumatic time in my little family’s life, this was an unnecessary added burden.

My son is now a junior, still in special education, but in a public high school. He’s doing remarkably and I can say that it isn’t due to the services that he received but to his own strength and courage to fight his way back and make it on his own. His is truly an incredible young man and I am so proud of him. I have a bumper sticker that reads, “I am a proud parent of an honor roll student” which I never thought I would have. He earned that on his own.

Thank you for this opportunity to share my story.

Mr. DODD. I thank these families for sharing their personal experiences with

me, and for following me to share their experiences publicly. More importantly, I commend their tenacity in facing the challenges they face each and every day in caring for their children. Their stories, along with the stories I have heard from other families in Connecticut and elsewhere in the country, have fueled my belief that child and adolescent mental health needs to be a top priority.

Recognizing the fragmentation of the Nation’s mental health delivery system, Surgeon General Satcher’s report concluded that one fundamental way to meet the mental—health needs of children and adolescents is to “. . . move towards a community-based mental health delivery system that balances health promotion, disease prevention, early detection, and universal access to care.” The report further stated eight goals to ensure the resiliency of children and adolescents. These goals were: first, to promote public awareness of children’s mental health issues and reduce stigma associated with mental illness; second, to continue to develop, disseminate, and implement scientifically-proven prevention and treatment services in the field of children’s mental health; third, to improve the assessment of and recognition of mental health needs in children; fourth, to eliminate racial, ethnic and socioeconomic disparities in access to mental health care services; fifth, to improve the infrastructure for children’s mental health services, including support for scientifically-proven interventions across professions; sixth, to increase access to and coordination of quality mental health care services; seventh, to train frontline providers to recognize and manage mental health issues, and educate mental healthcare providers about scientifically-proven prevention and treatment services, and; finally, to monitor the access to and coordination of quality mental health care services.

In 2002, President Bush established the President’s New Freedom Commission on Mental Health to study three obstacles identified by the President that prevent Americans with mental illness from getting the care they require. These obstacles were identified as the stigma that surrounds mental health care, a lack of mental health parity, and the fragmented mental health delivery system. In 2003, the President’s New Freedom Commission issued a report that made a series of recommendations on how the Nation’s mental health system could be transformed for the better. Like Surgeon General Satcher’s report, this publication also set forth a series of goals. They were: first, to ensure Americans understand that mental health is essential to overall health; second, to ensure that mental health care is consumer- and family-driven; third, to eliminate disparities in mental health care services; fourth, to ensure that

early mental health screening, assessment, and referral services are common practices; fifth, to ensure that excellent mental health care is delivered and research is accelerated, and; finally, to ensure that technology is used to access mental health care and information.

I describe these two reports because the legislation I am introducing today seeks to address the recommendations they espouse. My legislation, the Child and Adolescent Mental Health Resiliency Act of 2006, authorizes \$210 million in an effort to meet five principal objectives.

The first objective is to increase access to, and improve the quality of, mental health care services delivered to children and adolescents. My legislation seeks to meet this objective in several ways.

First, it authorizes a new grant of \$50 million for States to develop and implement a comprehensive mental health plan exclusively for children and adolescents that provides community-based mental health early intervention and prevention services and relevant support services, such as primary health care, education, transportation and housing. The plan would have to meet a set of core operational and evaluative requirements and would have to be developed through extensive outside consultation with children and adolescents, their families, advocates and health professionals.

Second, my legislation authorizes two matching grants of \$22.5 million each for community health centers—many of which primarily serve low-income populations and primary health care facilities, such as a pediatrician's office, to provide community-based mental health services in coordination with community mental health centers and/or trained mental health professionals.

Third, my legislation authorizes a new grant of \$22.5 million for States, localities and private nonprofit organizations—e.g., school districts—to provide community-based mental health services in schools appropriate mental health training activities to relevant school and health professionals.

Fourth, my legislation authorizes a new grant of \$20 million for States, localities and private nonprofit organizations to provide community-based mental health services specifically for at-risk mothers and their children.

Fifth, my legislation authorizes a new grant of \$10 million for States, localities and private nonprofit organizations to provide community-based mental health services for children and adolescents in juvenile justice systems.

Sixth, my legislation authorizes \$10 million for the Secretary of Health and Human Services to establish, run and evaluate a demonstration project that improves the ability of local case managers to work across the mental health, public health, substance abuse, child welfare, education, juvenile justice and social services systems in a State.

Finally, my legislation requires States to meet their statutory obligations to fund fully mental health screening services under the Early and Periodic Screening, Diagnostic and Treatment Services Program. It also requires current successful initiatives, such as the Comprehensive Community Mental Health Services for Children with Serious Emotional Disturbance Program, the Community Mental Health Services Performance Partnership Block Grant, the Community Mental Health Services Block Grant, and the Jail Diversion Program, to expand their scope with respect to certain reporting, evaluative, and service activities.

The second objective my legislation seeks to meet is ensuring greater public awareness and greater family participation in mental health services decision-making. Towards this end, my legislation does the following:

First, it authorizes a new grant of \$10 million for States, localities and private nonprofit organizations to develop policies that enable families of children and adolescents with mental health disorders to have increased control and choice over mental health services provided and received through a publicly-funded mental health system.

Second, it authorizes a new grant of \$10 million for private nonprofit organizations to provide information on child and adolescent mental health disorders, services, support services and respite care to families of children and adolescents with or who are at risk for mental health disorders.

Third, it authorizes a new grant of \$10 million for private nonprofit organizations to develop community coalitions and public education activities that promote child and adolescent resiliency.

In addition, my legislation authorizes \$10 million to establish two new technical assistance centers. These centers are designed to collect and disseminate information on mental health disorders, mental health disorder risk factors, mental health services, mental health service access, relevant support services, reducing seclusion and restraints, and family participation in mental health service decision-making—exclusively for children and adolescents with or at risk of mental health disorders.

The third objective that this legislation seeks to meet is for the Federal Government to develop a policy specifically designed to meet the unique mental health needs of children and adolescents. The legislation authorizes \$10 million for the establishment of an interagency coordinating committee consisting of all Federal officials whose departments or agencies oversee mental health activities for children and adolescents. Modeled after language in the Garrett Lee Smith Memorial Act, my legislation requires the coordinating committee to consult with outside parties, develop a Federal policy

exclusively pertaining to child and adolescent mental health, and report annually to Congress on specific challenges and solutions associated with comprehensively addressing the mental health needs of children and adolescents.

The fourth and final objective that this legislation seeks to meet is increasing the amount of research into child and adolescent mental health. Only through intensive research can we develop evidence-based best practices that allow us to develop services that fully meet the mental health needs of our children. Towards that end, my legislation authorizes a new grant of \$12.5 million for States, localities, institutions of higher education and private nonprofit organizations to identify and research current service, training and information awareness gaps in mental health delivery systems for children and adolescents. My legislation also authorizes \$12.5 million to enhance comprehensive Federal research and evaluation of promising best practices, existing disparities, psychotropic medications, trauma, recovery and rehabilitation, and co-occurring disorders as they relate to child and adolescent mental health.

My colleague on the Health, Education, Labor, and Pensions Committee, Chairman ENZI, has indicated a desire to bring up the Substance Abuse and Mental Health Services Administration reauthorization measure soon. It is my hope that this legislation can contribute to that reauthorization effort.

I would like to conclude by saying that this legislation, while comprehensive, is a first step—not a complete solution—towards fully meeting the challenge of ensuring the resiliency of our children and adolescents. We need to continue working together—young people, families, doctors, counselors, nurses, teachers, advocates, and policymakers—since we all have a stake, either professional or personal—in this issue. Only by working together can we develop effective and compassionate ways through which every young person in this nation is given a solid foundation upon which to reach his or her dreams in life.

I ask unanimous consent that the text of this legislation be printed in the CONGRESSIONAL RECORD.

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

S. 3449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Child and Adolescent Mental Health Resiliency Act of 2006”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—STATE AND COMMUNITY ACTIVITIES CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS

- Sec. 101. Grants concerning comprehensive state mental health plans.
- Sec. 102. Grants concerning early intervention and prevention.
- Sec. 103. Activities concerning mental health services in schools.
- Sec. 104. Activities concerning mental health services under the early and periodic screening, diagnostic, and treatment services program.
- Sec. 105. Activities concerning mental health services for at-risk mothers and their children.
- Sec. 106. Activities concerning interagency case management.
- Sec. 107. Grants concerning consumer and family participation.
- Sec. 108. Grants concerning information on child and adolescent mental health services.
- Sec. 109. Activities concerning public education of child and adolescent mental health disorders and services.
- Sec. 110. Technical assistance center concerning training and seclusion and restraints.
- Sec. 111. Technical assistance centers concerning consumer and family participation.
- Sec. 112. Comprehensive community mental health services for children and adolescents with serious emotional disturbances.
- Sec. 113. Community mental health services performance partnership block grant.
- Sec. 114. Community mental health services block grant program.
- Sec. 115. Grants for jail diversion programs.

TITLE II—FEDERAL INTERAGENCY COLLABORATION AND RELATED ACTIVITIES

- Sec. 201. Interagency coordinating committee concerning the mental health of children and adolescents.

TITLE III—RESEARCH ACTIVITIES CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS

- Sec. 301. Activities concerning evidence-based or promising best practices.
- Sec. 302. Federal research concerning adolescent mental health.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, mental health is a critical component of children's learning and general health.

(2) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, one in 10 children and adolescents suffer from mental illness severe enough to cause some level of impairment.

(3) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, only one in five children and adolescents who suffer from severe mental illness receive the specialty mental health services they require.

(4) According to the World Health Organization, childhood neuropsychiatric disorders will rise by over 50 percent by 2020, internationally, to become one of the five most common causes of morbidity, mortality, and disability among children.

(5) According to the Surgeon General's Conference on Children's Mental Health: A

National Action Agenda, the burden of suffering experienced by children with mental illness and their families has created a health crisis in this country.

(6) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, there is broad evidence that the nation lacks a unified infrastructure to help children suffering from mental illness;

(7) According to the President's New Freedom Commission on Mental Health, President George Bush identified three obstacles preventing Americans with mental illness from getting the care they require: stigma that surrounds mental illness; unfair treatment limitations and financial requirements placed on mental health benefits in private health insurance, and; the fragmented mental health service delivery system.

(8) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, one way to ensure that the country's health system meets the mental health needs of children is to move towards a community-based mental health delivery system that balances health promotion, disease prevention, early detection, and universal access to care.

(9) According to the President's New Freedom Commission on Mental Health, transforming the country's mental health delivery system rests on two principles: services and treatments must be consumer and family-centered, and; care must focus on increasing a person's ability to successfully cope with life's challenges, on facilitating recovery, and building resiliency.

(10) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, the mental health and resiliency of children can be ensured by methods that: promote public awareness of children's mental health issues and reduce stigma associated with mental illness; continue to develop, disseminate, and implement scientifically-proven prevention and treatment services in the field of children's mental health; improve the assessment of and recognition of mental health needs in children; eliminate racial, ethnic and socioeconomic disparities in access to mental healthcare services; improve the infrastructure for children's mental health services, including support for scientifically-proven interventions across professions; increase access to and coordination of quality mental healthcare services; train frontline providers to recognize and manage mental health issues, and educate mental healthcare providers about scientifically-proven prevention and treatment services, and; monitor the access to and coordination of quality mental healthcare services.

(11) According to the President's New Freedom Commission on Mental Health, the country's mental health delivery system can be successfully transformed by methods that: ensure Americans understand that mental health is essential to overall health; ensure mental health care is consumer and family-driven; eliminate disparities in mental healthcare services; ensure early mental health screening, assessment, and referral services are common practices; ensure that excellent mental health care is delivered and research is accelerated, and; technology is used to access mental health care and information.

TITLE I—STATE AND COMMUNITY ACTIVITIES CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS

SEC. 101. GRANTS CONCERNING COMPREHENSIVE STATE MENTAL HEALTH PLANS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb-31 et

seq.) is amended by inserting after section 520A, the following:

“SEC. 520B. COMPREHENSIVE STATE MENTAL HEALTH PLANS.

“(a) GRANTS.—The Secretary, acting through the Center for Mental Health Services, shall award a 1-year, non-renewable grant to, or enter into a 1-year cooperative agreement with, a State for the development and implementation by the State of a comprehensive State mental health plan that exclusively meets the mental health needs of children and adolescents, including providing for early intervention, prevention, and recovery oriented services and supports for children and adolescents, such as mental and primary health care, education, transportation, and housing.

“(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under this section a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

“(1) a certification by the governor of the State that the governor will be responsible for overseeing the development and implementation of the comprehensive State mental health plan; and

“(2) the signature of the governor of the State.

“(c) REQUIREMENTS.—The Comprehensive State Plan shall include the following:

“(1) An evaluation of all the components of the current mental health system in the State, including the estimated number of children and adolescents requiring and receiving mental health services, as well as support services such as primary health care, education, and housing.

“(2) A description of the long-term objectives of the State for policies concerning children and adolescents with mental disorders. Such objectives shall include—

“(A) the provision of early intervention and prevention services to children and adolescents with, or who are at risk for, mental health disorders that are integrated with school systems, educational institutions, juvenile justice systems, substance abuse programs, mental health programs, primary care programs, foster care systems, and other child and adolescent support organizations;

“(B) a demonstrated collaboration among agencies that provide early intervention and prevention services or a certification that entities will engage in such future collaboration;

“(C) implementing or providing for the evaluation of children and adolescents mental health services that are adapted to the local community;

“(D) implementing collaborative activities concerning child and adolescent mental health early intervention and prevention services;

“(E) the provision of timely appropriate community-based mental health care and treatment of children and adolescents in child and adolescent-serving settings and agencies;

“(F) the provision of adequate support and information resources to families of children and adolescents with, or who are at risk for, mental health disorders;

“(G) the provision of adequate support and information resources to advocacy organizations that serve children and adolescents with, or who are at risk for, mental health disorders, and their families;

“(H) identifying and offering access to services and care to children and adolescents and their families with diverse linguistic and cultural backgrounds;

“(I) identifying and offering equal access to services in all geographic regions of the State;

“(J) identifying and offering appropriate access to services in geographical regions of the State with above-average occurrences of child and adolescent mental health disorders;

“(K) identifying and offering appropriate access to services in geographical regions of the State with above-average rates of children and adolescents with co-occurring mental health and substance abuse disorders;

“(L) offering continuous and up-to-date information to, and carrying out awareness campaigns that target children and adolescents, parents, legal guardians, family members, primary care professionals, mental health professionals, child care professionals, health care providers, and the general public and that highlight the risk factors associated with mental health disorders and the life-saving help and care available from early intervention and prevention services;

“(M) ensuring that information and awareness campaigns on mental health disorder risk factors, and early intervention and prevention services, use effective and culturally-appropriate communication mechanisms that are targeted to and reach adolescents, families, schools, educational institutions, juvenile justice systems, substance abuse programs, mental health programs, primary care programs, foster care systems, and other child and adolescent support organizations;

“(N) implementing a system to ensure that primary care professionals, mental health professionals, and school and child care professionals are properly trained in evidence-based best practices in child and adolescent mental health early intervention and prevention, treatment and rehabilitation services and that those professionals involved with providing early intervention and prevention services are properly trained in effectively identifying children and adolescents with or who are at risk for mental health disorders;

“(O) the provision of continuous training activities for primary care professionals, mental health professionals, and school and child care professionals on evidence-based or promising best practices;

“(P) the provision of continuous training activities for primary care professionals, mental health professionals, and school and child care professionals on family and consumer involvement and participation;

“(Q) conducting annual self-evaluations of all outcomes and activities, including consulting with interested families and advocacy organizations for children and adolescents.

“(3) A cost-assessment relating to the development and implementation of the State plan and a description of how the State will measure performance and outcomes across relevant agencies and service systems.

“(4) A timeline for achieving the objectives described in paragraph (2).

“(5) An outline for achieving the sustainability of the objectives described in paragraph (2).

“(d) APPLICATION OF OTHER REQUIREMENTS.—The authorities and duties of State mental health planning councils provided for under sections 1914 and 1915 with respect to State mental health block grant planning shall apply to the development and the implementation of the comprehensive State mental health plan.

“(e) PARTICIPATION AND IMPLEMENTATION.—

“(1) PARTICIPATION.—In developing and implementing the comprehensive State mental health plan under a grant or cooperative agreement under this section, the State shall ensure the participation of the State agency

heads responsible for child and adolescent mental health, substance abuse, child welfare, Medicaid, public health, developmental disabilities, social services, juvenile justice, housing, and education.

“(2) CONSULTATION.—In developing and implementing the comprehensive State mental health plan under a grant or cooperative agreement under this section, the State shall consult with—

“(A) the Federal interagency coordinating committee established under section 401 of the Child and Adolescent Mental Health Re-siliency Act of 2006;

“(B) State and local agencies, including agencies responsible for child and adolescent mental health care, early intervention and prevention services under titles IV, V, and XIX of the Social Security Act, and the State's Children's Health Insurance Program under title XXI of the Social Security Act;

“(C) State mental health planning councils (described in section 1914);

“(D) local, State, and national advocacy organizations that serve children and adolescents with or who are at risk for mental health disorders and their families;

“(E) relevant national medical and other health professional and education specialty organizations;

“(F) children and adolescents with mental health disorders and children and adolescents who are currently receiving early intervention or prevention services;

“(G) families and friends of children and adolescents with mental health disorders and children and adolescents who are currently receiving early intervention or prevention services;

“(H) families and friends of children and adolescents who have attempted or completed suicide;

“(I) qualified professionals who possess the specialized knowledge, skills, experience, training, or relevant attributes needed to serve children and adolescents with or who are at risk for mental health disorders and their families; and

“(J) third-party payers, managed care organizations, and related employer and commercial industries.

“(3) SIGNATURE.—The Governor of the State shall sign the comprehensive State mental health plan application and be responsible for overseeing the development and implementation of the plan.

“(f) SATISFACTION OF OTHER FEDERAL REQUIREMENTS.—A State may utilize the comprehensive State mental health plan that meets the requirements of this section to satisfy the planning requirements of other Federal mental health programs administered by the Secretary, including as the Community Mental Health Services Block Grant and the Children's Mental Health Services Program, so long as the requirements of such programs are satisfied through the plan.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$50,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”

SEC. 102. GRANTS CONCERNING EARLY INTERVENTION AND PREVENTION.

Title V of the Public Health Services Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

“PART K—MISCELLANEOUS MENTAL HEALTH PROVISIONS

“SEC. 597. GRANTS FOR MENTAL HEALTH ASSESSMENT SERVICES.

“(a) IN GENERAL.—The Secretary shall award 5-year matching grants to, or enter into cooperative agreements with, community health centers that receive assistance under section 330 to enable such centers to

provide child and adolescent mental health early intervention and prevention services to eligible children and adolescents, and to provide referral services to, or early intervention and prevention services in coordination with, community mental health centers and other appropriately trained providers of care.

“(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

“(1) be a community health center that receives assistance under section 330;

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

“(3) provide assurances that the entity will have appropriately qualified behavioral health professional staff to ensure prompt treatment or triage for referral to a specialty agency or provider; and

“(4) provide assurances that the entity will encourage formal coordination with community mental health centers and other appropriate providers to ensure continuity of care.

“(c) IDENTIFICATION.—In providing services with amounts received under a grant or cooperative agreement under this section, an entity shall ensure that appropriate screening tools are used to identify at-risk children and adolescents who are eligible to receive care from a community health centers.

“(d) MATCHING REQUIREMENT.—With respect to the costs of the activities to be carried out by an entity under a grant or cooperative agreement under this section, an entity shall provide assurances that the entity will make available (directly or through donations from public or private entities) non-Federal contributions towards such costs in an amount that is not less than \$1 for each \$1 of Federal funds provided under the grant or cooperative agreement.

“SEC. 597A. GRANTS FOR PRIMARY CARE AND MENTAL HEALTH EARLY INTERVENTION AND PREVENTION SERVICES.

“(a) IN GENERAL.—The Secretary shall award 5-year matching grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, tribal organizations, public organizations, or private nonprofit organizations to enable such entities to provide assistance to mental health programs for early intervention and prevention services to children and adolescents with, or who are at-risk of, mental health disorders and that are in primary care settings.

“(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

“(1) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, a public organization, or private nonprofit organization; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this section to—

“(1) provide appropriate child and adolescent mental health early intervention and prevention assessment services;

“(2) provide appropriate child and adolescent mental health treatment services;

“(3) provide monitoring and referral for specialty treatment of medical or surgical conditions for children and adolescents; and

“(4) facilitate networking between primary care professionals, mental health professionals, and child care professionals for—

“(A) case management development;

“(B) professional mentoring; and

“(C) enhancing the provision of mental health services in schools.

“(d) MATCHING REQUIREMENTS.—With respect to the costs of the activities to be carried out by an entity under a grant or cooperative agreement under this section, an entity shall provide assurances that the entity will make available (directly or through donations from public or private entities) non-Federal contributions towards such costs in an amount that is not less than \$1 for each \$1 of Federal funds provided under the grant or cooperative agreement.

“SEC. 597B. GRANTS FOR MENTAL HEALTH AND PRIMARY CARE EARLY INTERVENTION AND PREVENTION SERVICES.

“(a) IN GENERAL.—The Secretary shall award 5-year matching grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, tribal organizations, public organizations, or private nonprofit organizations to enable such entities to provide assistance to primary care programs for children and adolescents with, or who are at-risk of, mental health disorders who are in mental health settings.

“(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

“(1) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, or a private nonprofit organization; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this section to—

“(1) provide appropriate primary health care services, including screening, routine treatment, monitoring, and referral for specialty treatment of medical or surgical conditions;

“(2) provide appropriate monitoring of medical conditions of children and adolescents receiving mental health services from the applicant and refer them, as needed, for specialty treatment of medical or surgical conditions; and

“(3) facilitate networking between primary care professionals, mental health professionals and child care professionals for—

“(A) case management development; and

“(B) professional mentoring.

“(d) MATCHING FUNDS.—With respect to the costs of the activities to be carried out by an entity under a grant or cooperative agreement under this section, an entity shall provide assurances that the entity will make available (directly or through donations from public or private entities) non-Federal contributions towards such costs in an amount that is not less than \$1 for each \$1 of Federal funds provided under the grant or cooperative agreement.

“SEC. 597C. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to carry out this part \$22,500,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”

SEC. 103. ACTIVITIES CONCERNING MENTAL HEALTH SERVICES IN SCHOOLS.

(a) EFFORTS OF SECRETARY TO IMPROVE THE MENTAL HEALTH OF STUDENTS.—The Secretary of Education, in collaboration with the Secretary of Health and Human Services, shall—

(1) encourage elementary and secondary schools and educational institutions to address mental health issues facing children and adolescents by—

(A) identifying children and adolescents with, or who are at-risk for, mental health disorders;

(B) providing or linking children and adolescents to appropriate mental health services and supports; and

(C) assisting families, including providing families with resources on mental health services for children and adolescents and a link to relevant local and national advocacy and support organizations;

(2) collaborate on expanding and fostering a mental health promotion and early intervention strategy with respect to children and adolescents that focuses on emotional well being and resiliency and fosters academic achievement;

(3) encourage elementary and secondary schools and educational institutions to use positive behavioral support procedures and functional behavioral assessments on a school-wide basis as an alternative to suspending or expelling children and adolescents with or who are at risk for mental health needs; and

(4) provide technical assistance to elementary and secondary schools and educational institutions to implement the provisions of paragraphs (1) through (3).

(b) GRANTS.—

(1) IN GENERAL.—The Secretary of Education, in collaboration with the Secretary of Health and Human Services, shall award grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, tribal organizations, public organizations, private nonprofit organizations, elementary and secondary schools, and other educational institutions to provide directly or provide access to mental health services and case management of services in elementary and secondary schools and other educational settings.

(2) APPLICATION.—To be eligible to receive a grant or cooperative agreement under paragraph (1) an entity shall—

(A) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, a public organization, a private nonprofit organization, an elementary or secondary school, or an educational institution; and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the entity will—

(i) provide directly or provide access to early intervention and prevention services in settings with an above average rate of children and adolescents with mental health disorders;

(ii) provide directly or provide access to early intervention and prevention services in settings with an above average rate of children and adolescents with co-occurring mental health and substance abuse disorders; and

(iii) demonstrate a broad collaboration of parents, primary care professionals, school and mental health professionals, child care professionals including those in educational settings, legal guardians, and all relevant local agencies and organizations in the application for, and administration of, the grant or cooperative agreement.

(3) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this subsection to provide—

(A) mental health identification services;

(B) early intervention and prevention services to children and adolescents with or who are at-risk of mental health disorders; and

(C) mental health-related training to primary care professionals, school and mental health professionals, and child care professionals, including those in educational settings.

(c) COUNSELING AND BEHAVIORAL SUPPORT GUIDELINES.—The Secretary of Education, in collaboration with the Secretary of Health and Human Services, shall develop and issue guidelines to elementary and secondary

schools and educational institutions that encourage such schools and institutions to provide counseling and positive behavioral supports, including referrals for needed early intervention and prevention services, treatment, and rehabilitation to children and adolescents who are disruptive or who use drugs and show signs or symptoms of mental health disorders. Such schools and institutions shall be encouraged to provide such services to children and adolescents in lieu of suspension, expulsion, or transfer to a juvenile justice system without any support referral services or system of care.

(d) STUDY.—

(1) IN GENERAL.—The Government Accountability Office shall conduct a study to assess the scientific validity of the Federal definition of a child or adolescent with an “emotional disturbance” as provided for in the regulations of the Department of Education under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and whether, as written, such definition now excludes children and adolescents inappropriately through a determination that those children and adolescents are “socially maladjusted”.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriated committees of Congress a report concerning the results of the study conducted under paragraph (1).

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to supercede the provisions of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), including the requirement of prior parental consent for the disclosure of any education records; and

(2) to modify or affect the parental notification requirements for programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$22,500,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.

SEC. 104. ACTIVITIES CONCERNING MENTAL HEALTH SERVICES UNDER THE EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES PROGRAM.

(a) NOTIFICATION.—The Secretary of Health and Human Services, acting through the Director of the Centers for Medicare and Medicaid Services, shall notify State Medicaid agencies of—

(1) obligations under section 1905(r) of the Social Security Act with respect to the identification of children and adolescents with mental health disorders and of the availability of validated mechanisms that aid pediatricians and other primary care professionals to incorporate such activities; and

(2) information on financing mechanisms that such agencies may use to reimburse primary care professionals, mental health professionals, and child care professionals who provide mental health services as authorized under such definition of early and period screening, diagnostic, and treatment services.

(b) REQUIREMENTS.—State Medicaid agencies who receive funds for early and period screening, diagnostic, and treatment services funding shall provide an annual report to the Secretary of Health and Human Services that—

(1) analyzes the rates of eligible children and adolescents who receive mental health identification services of the type described in subsection (a)(1) under the Medicaid program in the State;

(2) analyzes the ways in which such agency has used financing mechanisms to reimburse primary care professionals, mental health

professionals, and child care professionals who provide such mental health services;

(3) identifies State program rules and funding policies that may impede such agency from meeting fully the Federal requirements with respect to such services under the medicaid program; and

(4) makes recommendations on how to overcome the impediments identified under paragraph (3).

SEC. 105. ACTIVITIES CONCERNING MENTAL HEALTH SERVICES FOR AT-RISK MOTHERS AND THEIR CHILDREN.

Title V of the Social Security Act (42 U.S.C. 701 et seq.) is amended by adding at the end the following:

“SEC. 511. ENHANCING MENTAL HEALTH SERVICES FOR AT-RISK MOTHERS AND THEIR CHILDREN.

“(a) GRANTS.—The Secretary shall award grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, tribal organizations, public organizations, and private nonprofit organizations to provide appropriate mental health promotion and mental health services to at-risk mothers, grandmothers who are legal guardians, and their children.

“(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

“(1) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, a public organization, or a private nonprofit organization; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) USE OF FUNDS.—Amounts received under a grant or cooperative agreement under this section shall be used to—

“(1) provide mental health early intervention, prevention, and case management services;

“(2) provide mental health treatment services; and

“(3) provide monitoring and referral for specialty treatment of medical or surgical conditions.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$20,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”.

SEC. 106. ACTIVITIES CONCERNING INTER-AGENCY CASE MANAGEMENT.

Part L of title V of the Public Health Service Act, as added by section 102, is amended by adding at the end the following:

“SEC. 597C. INTERAGENCY CASE MANAGEMENT.

“(a) IN GENERAL.—The Secretary shall establish a program to foster the ability of local case managers to work across the mental health, substance abuse, child welfare, education, and juvenile justice systems in a State. As part of such program, the Secretary shall develop a model system that—

“(1) establishes a training curriculum for primary care professionals, mental health professionals, school and child care professionals, and social workers who work as case managers;

“(2) establishes uniform standards for working in multiple service systems; and

“(3) establishes a cross-system case manager certification process.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”.

SEC. 107. GRANTS CONCERNING CONSUMER AND FAMILY PARTICIPATION.

Part K of title V of the Public Health Service Act, as added by section 102 and amended

by section 106, is further amended by adding at the end the following:

“SEC. 597D. CONSUMER AND FAMILY CONTROL IN CHILD AND ADOLESCENT MENTAL HEALTH SERVICE DECISIONS.

“(a) GRANTS.—The Secretary shall award grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, and tribal organizations for the development of policies and mechanisms that enable consumers and families to have increased control and choice over child and adolescent mental health services received through a publicly-funded mental health system.

“(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

“(1) be a State, a political subdivision of a State, a consortia of political subdivisions, or a tribal organization; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this section to carry out the activities described in subsection (a). Such activities may include—

“(1) the facilitation of mental health service planning meetings by consumer and family advocates, particularly peer advocates;

“(2) the development of consumer and family cooperatives; and

“(3) the facilitation of national networking between State political subdivisions and tribal organizations engaged in promoting increased consumer and family participation in decisions regarding mental health services for children and adolescents.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$10,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”.

SEC. 108. GRANTS CONCERNING INFORMATION ON CHILD AND ADOLESCENT MENTAL HEALTH SERVICES.

Part K of title V of the Public Health Service Act, as added by section 102 and amended by section 107, is further amended by adding at the end the following:

“SEC. 597E. INCREASED INFORMATION ON CHILD AND ADOLESCENT MENTAL HEALTH SERVICES.

“(a) GRANTS.—The Secretary shall award grants to, or enter into cooperative agreements with, private nonprofit organizations to enable such organizations to provide information on child and adolescent mental health and services, consumer or parent-to-parent support services, respite care, and other relevant support services to—

“(1) parents and legal guardians of children or adolescents with or who are at risk for mental health disorders; and

“(2) families of adolescents with or who are at risk for mental health disorders.

“(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

“(1) be a private, nonprofit organization; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$10,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”.

SEC. 109. ACTIVITIES CONCERNING PUBLIC EDUCATION OF CHILD AND ADOLESCENT MENTAL HEALTH DISORDERS AND SERVICES.

Part K of title V of the Public Health Service Act, as added by section 102 and amended

by section 108, is further amended by adding at the end the following:

“SEC. 597F. ACTIVITIES CONCERNING PUBLIC EDUCATION OF CHILD AND ADOLESCENT MENTAL HEALTH DISORDERS AND SERVICES.

“(a) EDUCATIONAL CAMPAIGN.—The Secretary shall develop, coordinate, and implement an educational campaign to increase public understanding of mental health promotion, child and adolescent emotional well-being and resiliency, and risk factors associated with mental health disorders in children and adolescents.

“(b) GRANTS.—

“(1) IN GENERAL.—The Secretary shall award grants to, or enter into cooperative agreements with, public and private nonprofit organizations with qualified experience in public education to build community coalitions and increase public awareness of mental health promotion, child and adolescent emotional well-being and resiliency, and risk factors associated with mental health disorders in children and adolescents.

“(2) APPLICATION.—To be eligible to receive a grant or cooperative agreement under paragraph (1), an entity shall—

“(A) be a public or private nonprofit organization; and

“(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(3) USE OF FUNDS.—Amounts received under a grant or contract under this subsection shall be used to—

“(A) develop community coalitions to support the purposes of paragraph (1); and

“(B) develop and implement public education activities that compliment the activities described in subsection (a) and support the purposes of paragraph (1).

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$10,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”.

SEC. 110. TECHNICAL ASSISTANCE CENTER CONCERNING TRAINING AND SECLUSION AND RESTRAINTS.

Part K of title V of the Public Health Service Act, as added by section 102 and amended by section 109, is further amended by adding at the end the following:

“SEC. 597G. TECHNICAL ASSISTANCE CENTER CONCERNING SECLUSION AND RESTRAINTS.

“(a) SECLUSION AND RESTRAINTS.—Acting through the technical assistance center established under subsection (b), the Secretary shall—

“(1) develop and disseminate educational materials that encourage ending the use of seclusion and restraints in all facilities or programs in which a child or adolescent resides or receives care or services;

“(2) gather, analyze, and disseminate information on best or promising best practices that can minimize conflicts between parents, legal guardians, primary care professionals, mental health professionals, school and child care professionals to create a safe environment for children and adolescents with mental health disorders; and

“(3) provide training for primary professionals, mental health professionals, and school and child care professionals on effective techniques or practices that serve as alternatives to coercive control interventions, including techniques to reduce challenging, aggressive, and resistant behaviors, that require seclusion and restraints.

“(b) CONSULTATION.—In carrying out this section, the Secretary shall consult with—

“(1) local and national advocacy organizations that serve children and adolescents who may require the use of seclusion and restraints, and their families;

“(2) relevant national medical and other health and education specialty organizations; and

“(3) qualified professionals who possess the specialized knowledge, skills, experience, and relevant attributes needed to serve children and adolescents who may require the use of seclusion and restraints, and their families.

“(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$5,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”.

SEC. 111. TECHNICAL ASSISTANCE CENTERS CONCERNING CONSUMER AND FAMILY PARTICIPATION.

Part K of title V of the Public Health Service Act, as added by section 102 and amended by section 110, is further amended by adding at the end the following:

“SEC. 597H. TECHNICAL ASSISTANCE CENTERS CONCERNING CONSUMER AND FAMILY PARTICIPATION.

“(a) GRANTS.—The Secretary shall award 5-year grants to, or enter into cooperative agreements with, private nonprofit organizations for the development and implementation of three technical assistance centers to support full consumer and family participation in decision-making about mental health services for children and adolescents.

“(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

“(1) be a private, nonprofit organization that demonstrates the ability to establish and maintain a technical assistance center described in this section; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this section to establish a technical assistance center of the type referred to in subsection (a). Through such center, the entity shall—

“(1) collect and disseminate information on mental health disorders and risk factors for mental health disorders in children and adolescents;

“(2) collect and disseminate information on available resources for specific mental health disorders, including co-occurring mental health and substance abuse disorders;

“(3) disseminate information to help consumers and families engage in illness self management activities and access services and resources on mental health disorder self-management;

“(4) support the activities of self-help organizations;

“(5) support the training of peer specialists, family specialists, primary care professionals, mental health professionals, and child care professionals;

“(6) provide assistance to consumer and family-delivered service programs and resources in meeting their operational and programmatic needs; and

“(7) provide assistance to consumers and families that participate in mental health system advisory bodies, including state mental health planning councils.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$5,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”.

SEC. 112. COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCES.

Section 561 of the Public Health Service Act (42 U.S.C. 290ff) is amended—

(1) in subsection (b)(1)(A), by inserting before the semicolon the following: “and pro-

vides assurances that the State will use grant funds in accordance with the comprehensive State mental health plan submitted under section 520B”; and

(2) in subsection (b), by adding at the end the following:

“(4) REVIEW OF POSSIBLE IMPEDIMENTS.—A State may use amounts received under a grant under this section to conduct an interagency review of State mental health program rules and funding policies that may impede the development of the comprehensive State mental health plan submitted under section 520B.”.

SEC. 113. COMMUNITY MENTAL HEALTH SERVICES PERFORMANCE PARTNERSHIP BLOCK GRANT.

Section 1912(b) of the Public Health Service Act (42 U.S.C. 300x-2(b)) is amended by adding at the end the following:

“(6) PERFORMANCE MEASURES.—The plan requires that performance measures be reported for adults and children separately.

“(7) OTHER MENTAL HEALTH SERVICES.—In addition to reporting on mental health services funded under a community mental health services performance partnership block grant, States are encouraged to report on all mental health services provided by the State mental health agency.”.

SEC. 114. COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Section 1912(b) of the Public Health Service Act (42 U.S.C. 300x-2(b)) is amended by adding at the end the following:

“(8) CO-OCCURRING TREATMENT SERVICES.—The plan provides for a system of support for the provision of co-occurring treatment services, including early intervention and prevention, and integrated mental health and substance abuse and services, for adolescents with co-occurring mental health and substance abuse disorders. Services shall be provided through the system under this paragraph in accordance with the Substance Abuse Prevention Treatment Block Grant program under subpart II.”.

(b) GUIDELINES FOR INTEGRATED TREATMENT SERVICES.—Section 1915 of the Public Health Service Act (42 U.S.C. 300x-4) is amended by adding at the end the following:

“(c) GUIDELINES FOR INTEGRATED TREATMENT SERVICES.—The Secretary shall issue written policy guidelines for use by States that describe how amounts received under a grant under this subpart may be used to fund integrated treatment services for children and adolescents with mental health disorders and with co-occurring mental health and substance abuse disorders.

“(d) MODEL SERVICE SYSTEMS FORUM.—The Secretary, in consultation with the Attorney General, shall periodically convene forums to develop model service systems and promote awareness of the needs of children and adolescents with co-occurring mental health disorders and to facilitate the development of policies to meet those needs.”.

(c) SUBSTANCE ABUSE GRANTS.—Section 1928 of the Public Health Service Act (42 U.S.C. 300x-28) is amended by adding at the end the following:

“(e) CO-OCCURRING TREATMENT SERVICES.—A State may use amounts received under a grant under this subpart to provide a system of support for the provision of co-occurring treatment services, including early intervention and prevention, and integrated mental health and substance abuse services, for children and adolescents with co-occurring mental health and substance abuse disorders. Services shall be provided through the system under this paragraph in accordance with the Community Mental Health Services Block Grant program under subpart I.

“(f) GUIDELINES FOR INTEGRATED TREATMENT SERVICES.—The Secretary shall issue

written policy guidelines, for use by States, that describe how amounts received under a grant under this section may be used to fund integrated treatment for children and adolescents with co-occurring substance abuse and mental health disorders.”.

SEC. 115. GRANTS FOR JAIL DIVERSION PROGRAMS.

Section 520G of the Public Health Service Act (42 U.S.C. 290bb-38)—

(1) in subsection (a), by striking “up to 125”; and

(2) in subsection (d)—

(A) in paragraph (3), by striking “and” at the end;

(B) in paragraph (4), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

“(5) provide appropriate community-based mental health and co-occurring mental illness and substance abuse services to children and adolescents determined to be at risk of contact with the law; and

“(6) provide for the inclusion of emergency mental health centers as part of jail diversion programs.”; and

(3) in subsection (h), by adding at the end the following: “As part of such evaluations, the grantee shall evaluate the effectiveness of activities carried out under the grant and submit reports on such evaluations to the Secretary.”.

SEC. 116. ACTIVITIES CONCERNING MENTAL HEALTH SERVICES FOR JUVENILE JUSTICE POPULATIONS.

(a) GRANTS.—The Secretary shall award grants to, or enter into cooperative agreements with, States, tribal organizations, political subdivisions of States, consortia of political subdivisions, public organizations, and private nonprofit organizations to provide mental health promotions and mental health services to children and adolescents in juvenile justice systems.

(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a), an entity shall—

(1) be a State, a tribal organization, a political subdivision of a State, a consortia of political subdivisions, a public organization, or a private nonprofit organization; and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received under a grant or cooperative agreement under this section shall be used to—

(1) provide mental health early intervention, prevention, and case management services;

(2) provide mental health treatment services; and

(3) provide monitoring and referral for specialty treatment of medical or surgical conditions.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$10,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.

TITLE II—FEDERAL INTERAGENCY COLLABORATION AND RELATED ACTIVITIES

SEC. 201. INTERAGENCY COORDINATING COMMITTEE CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”), in collaboration with the Federal officials described in subsection (b), shall establish an interagency coordinating committee (referred to in this section as the “Committee”) to carry out the activities described in this section relating to the mental health of children and adolescents.

(b) FEDERAL OFFICIALS.—The Federal officials described in this subsection are the following:

- (1) The Secretary of Education.
- (2) The Attorney General.
- (3) The Surgeon General.
- (4) The Secretary of the Department of Defense.
- (5) The Secretary of the Interior.
- (6) The Commissioner of Social Security.
- (7) Such other Federal officials as the Secretary determines to be appropriate.

(c) **CHAIRPERSON.**—The Secretary shall serve as the chairperson of the Committee.

(d) **DUTIES.**—The Committee shall be responsible for policy development across the Federal Government with respect to child and adolescent mental health.

(e) **COLLABORATION AND CONSULTATION.**—In carrying out the activities described in this Act, and the amendments made by this Act, the Secretary shall collaborate with the Committee (and the Committee shall collaborate with relevant Federal agencies and mental health working groups responsible for child and adolescent mental health).

(f) **CONSULTATION.**—In carrying out the activities described in this Act, and the amendments made by this Act, the Secretary and the Committee shall consult with—

(1) State and local agencies, including agencies responsible for child and adolescent mental health care, early intervention and prevention services under titles V and XIX of the Social Security Act, and the State Children's Health Insurance Program under title XXI of the Social Security Act;

(2) State mental health planning councils (as described in section 1914);

(3) local and national organizations that serve children and adolescents with or who are at risk for mental health disorders and their families;

(4) relevant national medical and other health professional and education specialty organizations;

(5) children and adolescents with mental health disorders and children and adolescents who are currently receiving early intervention or prevention services;

(6) families and friends of children and adolescents with mental health disorders and children and adolescents who are currently receiving early intervention or prevention services;

(7) families and friends of children and adolescents who have attempted or completed suicide;

(8) qualified professionals who possess the specialized knowledge, skills, experience, training, or relevant attributes needed to serve children and adolescents with or who are at risk for mental health disorders and their families; and

(9) third-party payers, managed care organizations, and related employer and commercial industries.

(g) **POLICY DEVELOPMENT.**—In carrying out the activities described in this Act, and the amendments made by this Act, the Secretary shall—

(1) coordinate and collaborate on policy development at the Federal level with the Committee, relevant Department of Health and Human Services, Department of Education, and Department of Justice agencies, and child and adolescent mental health working groups; and

(2) consult on policy development at the Federal level with the private sector, including consumer, medical, mental health advocacy groups, and other health and education professional-based organizations, with respect to child and adolescent mental health early intervention and prevention services.

(h) **REPORTS.**—

(1) **INITIAL REPORT.**—Not later than 2 years after the date of enactment of this Act, the Committee shall submit to the appropriate committees of Congress a report that includes—

(A) the results of an evaluation to be conducted by the Committee to analyze the effectiveness and efficacy of current activities concerning the mental health of children and adolescents;

(B) the results of an evaluation to be conducted by the Committee to analyze the effectiveness and efficacy of the activities carried out under grants, cooperative agreements, collaborations, and consultations under this Act, the amendments made by this Act, and carried out by existing Federal agencies

(C) the results of an evaluation to be conducted by the Committee to analyze identified problems and challenges, including—

(i) fragmented mental health service delivery systems for children and adolescents;

(ii) disparities between Federal agencies in mental health service eligibility requirements for children and adolescents;

(iii) disparities in regulatory policies of Federal agencies concerning child and adolescent mental health;

(iv) inflexibility of Federal finance systems to support evidence-based child and adolescent mental health;

(v) insufficient training of primary care professionals, mental health professionals, and child care professionals;

(vi) disparities and fragmentation of collection and dissemination of information concerning child and adolescent mental health services;

(vii) inability of State Medicaid agencies to meet Federal requirements concerning child and adolescent mental health under the early and period screening, diagnostics and treatment services requirements under the Medicaid program under title XIX of the Social Security Act; and

(viii) fractured Federal interagency collaboration and consultation concerning child and adolescent mental health;

(D) the recommendations of the Secretary on models and methods with which to overcome the problems and challenges described in subparagraph (B) for the purposes of improving Federal interagency coordination and the development of Federal mental health policy.

(2) **ANNUAL REPORT.**—Not later than 1 year after the date on which the initial report is submitted under paragraph (1), an annually thereafter, the Committee shall submit to the appropriate committees of Congress a report concerning the results of updated evaluations and recommendations described in paragraph (1).

(i) **PERSONNEL MATTERS.**—

(1) **STAFF AND COMPENSATION.**—Except as provided in paragraph (2), the Secretary may employ, and fix the compensation of an executive director and other personnel of the Committee without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(2) **MAXIMUM RATE OF PAY.**—The maximum rate of pay for the executive director and other personnel employed under paragraph (1) shall not exceed the rate payable for level IV of the Executive Schedule under section 5316 of title 5, United States Code.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, \$10,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.

TITLE III—RESEARCH ACTIVITIES CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS

SEC. 301. ACTIVITIES CONCERNING EVIDENCE-BASED OR PROMISING BEST PRACTICES.

Part K of title V of the Public Health Service Act, as added by section 102 and amended

by section 111, is further amended by adding at the end the following:

“SEC. 5971. ACTIVITIES CONCERNING EVIDENCE-BASED OR PROMISING BEST PRACTICES.

“(a) **GRANTS.**—

“(1) **IN GENERAL.**—The Secretary shall award grants to, and enter into cooperative agreements with, States, political subdivisions of States, consortia of political subdivisions, tribal organizations, institutions of higher education, or private nonprofit organizations for the development of child and adolescent mental health services and support systems that address widespread and critical gaps in a needed continuum of mental health service-delivery with a specific focus on encouraging the implementation of evidence-based or promising best practices.

“(2) **APPLICATION.**—To be eligible to receive a grant or cooperative agreement under paragraph (1) an entity shall—

“(A) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, an institution of higher education, or a private nonprofit organization; and

“(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(3) **USE OF FUNDS.**—Amounts received under a grant or cooperative agreement under this subsection shall be used to provide for the development and dissemination of mental health supports and services described in paragraph (1), including—

“(A) early intervention and prevention services, treatment and rehabilitation particularly for children and adolescents with co-occurring mental health and substance abuse disorders;

“(B) referral services;

“(C) integrated treatment services, including family therapy, particularly for children and adolescents with co-occurring mental health and substance abuse disorders;

“(D) colocating primary care and mental health services in rural and urban areas;

“(E) mentoring and other support services;

“(F) transition services;

“(G) respite care for parents, legal guardians, and families; and

“(H) home-based care.

“(b) **TECHNICAL ASSISTANCE CENTER.**—The Secretary shall establish a technical assistance center to assist entities that receive a grant or cooperative agreement under subsection (a) in—

“(1) identifying widespread and critical gaps in a needed continuum of child and adolescent mental health service-delivery;

“(2) identifying and evaluating existing evidence-based or promising best practices with respect to child and adolescent mental health services and supports;

“(3) improving the child and adolescent mental health service-delivery system by implementing evidence-based or promising best practices;

“(4) training primary care professionals, mental health professionals, and child care professionals on evidence-based or promising best practices;

“(5) informing children and adolescents, parents, legal guardians, families, advocacy organizations, and other interested consumer organizations on such evidence-based or promising best practices; and

“(6) identifying financing structures to support the implementation of evidence-based or promising best practices and providing assistance on how to build appropriate financing structures to support those services.

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, \$12,500,000 for fiscal

year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”.

SEC. 302. FEDERAL RESEARCH CONCERNING ADOLESCENT MENTAL HEALTH.

Part K of title V of the Public Health Service Act, as added by section 201 and amended by section 301, is further amended by adding at the end the following:

“SEC. 597J. FEDERAL RESEARCH CONCERNING ADOLESCENT MENTAL HEALTH.

“(a) **BEST PRACTICES.**—The Secretary shall provide for the conduct of research leading to the identification and evaluation of evidence-based or promising best practices, including—

“(1) early intervention and prevention mental health services and systems, particularly for children and adolescents with co-occurring mental health and substance abuse disorders;

“(2) mental health referral services;

“(3) integrated mental health treatment services, particularly for children and adolescents with co-occurring mental health and substance abuse disorders;

“(4) mentoring and other support services;

“(5) transition services; and

“(6) respite care for parents, legal guardians, and families of children and adolescents.

“(b) **IDENTIFICATION OF EXISTING DISPARITIES.**—The Secretary shall provide for the conduct of research leading to the identification of factors contributing to the existing disparities in children and adolescents mental health care in areas including—

“(1) evidence-based early intervention and prevention, diagnosis, referral, treatment, and monitoring services;

“(2) psychiatric and psychological epidemiology in racial and ethnic minority populations;

“(3) therapeutic interventions in racial and ethnic minority populations;

“(4) psychopharmacology;

“(5) mental health promotion and child and adolescent emotional well-being and resiliency;

“(6) lack of adequate service delivery systems in urban and rural regions; and

“(7) lack of adequate reimbursement rates for evidence-based early intervention and prevention, diagnosis, referral, treatment, and monitoring services.

“(c) **PSYCHOTROPIC MEDICATIONS.**—The Secretary shall provide for the conduct of research leading to the identification of the long-term effects of psychotropic medications and SSRIs and other psychotropic medications for children and adolescents.

“(d) **TRAUMA.**—The Secretary shall provide for the conduct of research leading to the identification of the long-term effects of trauma on the mental health of children and adolescents, including the effects of—

“(1) violent crime, particularly sexual abuse;

“(2) physical or medical trauma;

“(3) post-traumatic stress disorders; and

“(4) terrorism and natural disasters.

“(e) **ACUTE CARE.**—The Secretary shall provide for the conduct of research leading to the identification of factors contributing to problems in acute care. Such research shall address—

“(1) synthesizing the acute care knowledge data base;

“(2) assessing existing capacities and shortages in acute care;

“(3) reviewing existing model programs that exist to ensure appropriate and effective acute care;

“(4) developing new models when appropriate; and

“(5) proposing workable solutions to enhance the delivery of acute care and crisis intervention services.

“(f) **RECOVERY AND REHABILITATION.**—The Secretary shall provide for the conduct of research leading to the identification of methods and models to enhance the recovery and rehabilitation of children and adolescents with mental health disorders.

“(g) **CO-OCCURRING DISORDERS.**—The Secretary shall provide for the conduct of research leading to the identification of methods and models to enhance services and supports for children and adolescents with co-occurring mental health and substance abuse and disorders.

“(h) **RESEARCH COLLABORATION.**—The Secretary shall provide for the conduct of research that reviews existing scientific literature on the relationship between mental and physical health, particularly identifying new methods and models to enhance the balance between mental and physical health in children and adolescents.

“(i) **COLLABORATION.**—In carrying out the activities under this section, the Secretary shall collaborate with the Federal interagency coordinating committee established under section 401 of the Child and Youth Equitable Health Act of 2005, and relevant Federal agencies and mental health working groups responsible for child and adolescent mental health.

“(j) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, \$12,500,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.”.

By Mr. BROWNBACK (for himself and Mr. TALENT):

S. 3454. A bill to amend the Internal Revenue Code of 1986 to improve the exchange of healthcare information through the use of technology, to encourage the creation, use and maintenance of lifetime electronic health records that may contain health plan and debit card functionality in independent health record banks, to use such records to build a nationwide health information technology infrastructure, and to promote participation in health information exchange by consumers through tax incentives and for other purposes; to the Committee on Finance.

Mr. BROWNBACK. Mr. President, I rise today to introduce legislation that would address one of the most critical issues facing Americans today, that of rising health care costs. America's collective health care bill represents an increasing percentage of the GDP and, at the same time, mortality rates remain stubbornly high. It is apparent that the time has come for innovative health care solutions that will save money and save lives.

Today, I am introducing the Independent Health Record Bank Act of 2006, a market-driven approach that will save both money and lives by creating a self-sustaining National Health Information Network for doctors and patients. Rather than continuing to get by with a patchwork system of paper records that contributes to medical errors and high cost, this legislation creates a nationwide system of secure electronic health records. Under the Independent Health Record Bank Act, ownership of the record is truly independent and consumer-focused, as this type of bank provides the objective

service of sustaining individual electronic health records, much like the way financial institutions maintain assets. This consumer-driven approach will offer Americans portable and electronic health records over their lifetime at little to no cost, with specific, established measures for privacy and security.

We saw in the aftermath of Hurricane Katrina, when medical records and lab results were literally washed away, that the current system of paper records can prove to be cumbersome at best, and fatal at worst. Americans should have the ability to access their health records as easily as they access their bank accounts—through the use of a national IT network administered by cooperative, not-for-profit institutions. I urge my colleagues to support this effort through cosponsorship of this important legislation.

By Mr. SANTORUM:

S. 3455. A bill to establish a program to transfer surplus computers of Federal agencies to schools, nonprofit community-based educational organizations, and families of members of the Armed Forces who are deployed, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. SANTORUM. Mr. President, I rise today to introduce a bill which is intended to ensure that more surplus government computers are put to good use in our schools and by families of deployed service members.

Each year, it is becoming more and more evident that, especially for our youth, computer knowledge is essential for success. While many Americans have computers at home, there are still many Americans who do not have that easy access to computer technology. In addition, not all of our schools have or can afford up-to-date computer technology to aid their students in their learning. This bill is intended to bridge this gap.

It has been estimated that each week, the Federal Government disposes of 10,000 computers. Thanks in part to Executive Order 12999, which was issued in 1996, some of these computers are placed in schools that would otherwise not have access to this technology. The Executive order directs that federal agencies shall safeguard and identify potentially educationally useful federal equipment that is no longer needed or declared surplus. This equipment shall then be transferred directly or through the Government Services Administration Computers for Learning program to public and private schools and nonprofit organizations, including community-based educational organizations. Schools and nonprofits in enterprise communities or empowerment zones are prioritized in receiving these computers.

I have been pleased to be able to work through the related program in the Senate to place excess computers in several Pennsylvania schools where

they are being put to good use. Unfortunately, I have heard from those working in Pennsylvania to obtain such computers that not enough of them are getting through to schools. They are experiencing increased difficulty in maintaining the number and quality of computers they were previously able to get from the government for refurbishment and donation. In some cases, hard drives are being needlessly destroyed before they are turned over.

One of the problems that has prevented schools from getting and using these computers is that many times they are not able to be immediately put into use by the school. Schools may not have the technical ability or storage space to take computers directly from the government if they need maintenance before they can be placed into service. It has been estimated that if schools get the computers directly from the government, only 10 percent can be put into use. However, if they are first refurbished, 40 percent can be used.

The hope is that this legislation would result in federal agencies making more surplus computers available for schools by codifying the previous Executive order. The bill would also allow computers to go directly to non-profits for refurbishing before going to the school, making it easier for more schools to participate in the program. Currently, a school has to take title to the computer and then can transfer it to a nonprofit refurbisher to be fixed up, an additional step for them. This bill would allow nonprofit organizations like Computers for Schools that can refurbish computers at low-cost to participate in the process, getting computers ready to use and sending them out to schools where they last three more years, enabling more children to learn and profit by them. To prevent the needless destruction of hard drives, the bill also references federal standards on how to completely and securely erase hard drives without destroying them.

Lastly, this bill includes language that would make it possible to distribute these computers to the families of deployed service men and women who do not have a computer in their homes so that they can stay in better touch with their family members while they are fighting for our country.

I believe this legislation is an important step to help ensure that surplus federal computers are put to good use by allowing more of our youth to have access to computers in school. I am hopeful that this legislation will be enacted into law.

By Mr. MENENDEZ:

S. 3456. A bill to ensure the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States; to the Committee on Foreign Relations.

Mr. MENENDEZ. Mr. President, first, I congratulate my colleagues in the

House, Representatives SHAYS and MALONEY, for their hard work on this legislation and for introducing H.R. 5017, the companion legislation to the bill I am introducing today.

Almost 5 years ago, our country was attacked by terrorists on September 11, 2001. This attack on our cities, on our symbols, on our democracy, and on our way of life killed nearly 3,000 Americans and over 700 people from my home State of New Jersey. But this attack could not kill our determination to preserve our freedom, our values, and our democratic system.

Almost 2 years ago, the 9/11 Commission published their riveting account of what happened on that terrible day and made 41 unanimous and bipartisan recommendations to make our country safer from future terrorist attacks.

Six months ago, the 9/11 Public Discourse Project published a disturbing report card giving more F's than A's on the implementation of those 41 recommendations.

Today, I am introducing legislation to finally and fully implement the 41 bipartisan and unanimous recommendations of the 9/11 Commission. The former Chairman of the 9/11 Commission, Thomas Kean, and the former Vice Chairman, Lee Hamilton, endorsed this same legislation in the House, H.R. 5017 Shays-Maloney. In a letter, Mr. Kean and Mr. Hamilton said that the legislation "represents a comprehensive approach to carry out each of the recommendations of the Commission . . . [and] focuses on urgent unfinished business before the Nation . . ."

It is the responsibility of the Congress to carry out this urgent unfinished business. We certainly need this comprehensive legislation at a time when the disastrous Dubai Ports World deal made it clear that our ports are not safe and those who live and work near them are not secure; the Department of Homeland Security is increasing homeland security funding for small cities while cutting it to New York and Washington, DC; first responders still don't have the ability to communicate with each other during a disaster; nuclear weapons in the hands of a terrorist remain one of the greatest threats to our Nation, yet the 9/11 Public Discourse Project gave the administration a D on progress towards fixing this problem; and hundreds of Afghans have been killed in the recent violent resurgence of the Taliban.

Since immediately after September 11, many of us in Congress have been working to learn the hard lessons from those attacks so we can prepare for and prevent future terrorist acts. Shortly after the attacks, I introduced comprehensive homeland security legislation and served on the first ad-hoc Homeland Security Committee in the House.

I was a strong supporter of the creation of the 9/11 Commission and introduced a proposal on the House floor to fully implement the 9/11 Commission

recommendation in 2004 during the initial debate on the recommendations. I then served as a House negotiator on and helped secure passage of the final landmark intelligence reform bill that was the first step in implementing the 9/11 Commission recommendations. Introducing this legislation today is the next important step in protecting our country against terrorism. I certainly agree with the former heads of the 9/11 Commission that passing this bill should be a top priority for this Congress.

I think all of us were shocked last week when the Department of Homeland Security actually slashed overall homeland security grant funding for New York, Washington, DC, and New Jersey, while increasing funding for much smaller areas with fewer terrorist targets.

DHS slashed these funds in spite of the 9/11 Commission recommendation which said that "Homeland Security assistance should be based strictly—strictly—on an assessment of risks and vulnerabilities."

And that is exactly what I fought for when I introduced the Menendez substitute to the intelligence reform bill in 2004. That is exactly what I fought for in the conference report on that legislation and what I sought to accomplish in the House when I introduced the Risk-Based Homeland Security Funding Act with Senators Corzine and LAUTENBERG. And that is exactly what the legislation I am introducing today would do.

As many of you know, New Jersey faces unique terrorism threats that require a greater portion of homeland security aid due to its proximity to New York City and to its vast number of potential targets of terror, such as the largest container seaport on the east coast, one of the busiest airports in the country, an area known as the "chemical coastway," our four nuclear power plants, and the six tunnels and bridges that connect New Jersey to New York City.

And if that were not enough, the Federal Bureau of Investigation has placed more than a dozen New Jersey sites on the National Critical Infrastructure List and has called the area in my former congressional district between Port Elizabeth and Newark International Airport the "most dangerous two miles in the United States when it comes to terrorism." An article in The New York Times pointed out that this 2-mile area provides "a convenient way to cripple the economy by disrupting major portions of the country's rail lines, oil storage tanks and refineries, pipelines, air traffic, communications networks and highway system."

The bottom line is that States and municipalities, like New Jersey, which are under the greatest risk should receive homeland security dollars based solely on that risk. The funding awarded to Newark and Jersey City clearly proves that New Jersey is well served when Federal homeland security dollars are awarded based on risk. Yet I

cannot understand why the Department of Homeland Security would not use a risk-based formula when awarding all of their grants. So long as Homeland Security grants are awarded based on factors other than risk, those States most at risk will continue to lack the necessary resources to protect the people they serve.

I know that many Americans would also be shocked to learn that almost 5 years after 9/11 and almost 1 year after Hurricane Katrina, many first responders still cannot communicate with each other during a disaster.

In fact, when I speak to firefighters in my home State of New Jersey, they consistently tell me that this remains a serious impediment to their work. In our port in New Jersey, the largest container port in the east coast, firefighters, Coast Guard, police, and other law enforcement officials often still cannot communicate with each other. When Hurricane Katrina hit, emergency personnel were on at least five different channels and were hampered in communicating with one another. As the Washington Post reported on September 2, 2005, "Police officers and National Guard members, along with law officers imported from around the State, rarely knew more than what they could see with their own eyes."

It is astonishing that our firefighters, police, and paramedics still do not have the ability to communicate in an emergency. How is it possible that almost 5 years after September 11, our local first responders still do not have interoperable communications systems that can talk with each other as they carry out their lifesaving work?

That is why my legislation would provide adequate radio spectrum for first responders and a status report on creating a unified incident command system during disasters.

In its final report card, the 9/11 Public Discourse Project gave the administration a D for its efforts to secure WMDs. The former Commissioners then recommended that the U.S. Government make this issue the top national security priority to counter what it called "the greatest threat to America's security."

I certainly believe that a nuclear weapon in the hands of a terrorist is one of the greatest threats to our national security. Osama Bin Laden himself has said that it is al-Qaida's "religious duty" to acquire weapons of mass destruction.

According to CNN, in January 2002, documents found in a house in Kabul, Afghanistan, reportedly used by al-Qaida operatives included a 25-page document filled with information about nuclear weapons. That document included a design for a nuclear weapon that would require hard-to-obtain materials like plutonium to create a nuclear explosion.

One document appeared to be plans to create a nuclear device. Although experts contended that the design in this document labeled "superbombs" is

unworkable, the author, noted CNN, was clearly knowledgeable of various ways to set off a nuclear bomb.

In combination with the discovery of AQ Khan's clandestine nuclear super-market, the potential of al-Qaida building a nuclear weapon is not a fairytale. In fact, according to CNN, al-Qaida may have had some help in its efforts to develop a nuclear device from two Pakistani nuclear scientists.

This bill works to ensure that the fairytale does not become a cataclysmic reality.

The bill specifically implements the 9/11 Commission's recommendation to expand programs to stop shipments of weapons of mass destruction. With this legislation, the United States would also be able to extend our assistance to help countries control, protect, and dismantle their nuclear programs to countries outside of the former Soviet Union. It would also create an Office of Nonproliferation Programs in the Executive Office of the President to prevent terrorist access to WMDs. Finally, the bill includes a provision to enhance the Global Threat Reduction Initiative and would require the President to establish a Department of Energy task force on nuclear materials removal.

I believe we all want to make sure that a nuclearized al-Qaida never becomes a reality. And we should spare absolutely no effort in pursuing this goal.

Many of us have been horrified as we have watched the resurgence of the Taliban and strong anti-American sentiment in Afghanistan. Over just the past few weeks, over 250 people have been killed in the upsurge in violence, and we see techniques borrowed from Iraq, like the use of improvised explosive devices, in Afghanistan. According to the New York Times, Pentagon officials say that 32 suicide bombs were exploded in 2006, which is already 6 more than exploded in all of 2005. Roadside bombs are up 30 percent over last year, and the Taliban are fighting in groups triple the size of last year. And after a deadly traffic accident involving the U.S. military, an anti-American riot exploded in Kabul last week.

The 9/11 Commission made it clear in their recommendations that Afghanistan must be a priority stating that the "United States and the international community should make a long-term commitment to a secure and stable Afghanistan to improve life and make sure it is not a terrorist sanctuary." Unfortunately, we are clearly a long way from achieving that goal.

The administration never finished the job in Afghanistan, the birthplace of the Taliban, the home to al-Qaida, the land of Osama bin Laden, and the place where the attacks of 9/11 were planned.

That is why this legislation is an important step to help us move in the right direction in Afghanistan. My bill urges a new commitment to a long-term economic plan to ensure Afghanistan's stability as well as a report on

progress towards achieving the goals in the Afghanistan Freedom Support Act.

This bipartisan, bicameral legislation is the next step to finally implementing all of the 41 recommendations of the 9/11 Commission. Their report was a call to action. Their report card was a reminder of what still needed to be done. Their work cannot be left unfinished.

We must all heed advice of the 9/11 Commission and learn from the hard lessons of 9/11. We cannot wait any longer to take action, and I urge my colleagues to join me in supporting this legislation.

By Mrs. BOXER:

S.J. Res. 39. A joint resolution to spur a political solution in Iraq and encourage the people of Iraq to provide for their own security through the redeployment of the United States military forces; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, I rise today to introduce a resolution to spur a political solution in Iraq and encourage the people of Iraq to provide for their own security through the redeployment of U.S. military forces.

I introduce this resolution with the hope and prayer that we will redeploy U.S. troops from Iraq and end this ill-fated war that has resulted in more than 20,000 U.S. troops killed or wounded.

This resolution speaks for itself. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 39

Whereas the United States military forces have served bravely in Iraq and deserve the heartfelt support of the United States;

Whereas more than 2,450 members of the United States military forces have been killed and more than 18,000 wounded in support of military operations in Iraq;

Whereas more than 200 coalition personnel have been killed in support of military operations in Iraq;

Whereas it is estimated that at least 40,000 people of Iraq have been killed during the military intervention in Iraq;

Whereas much of the intelligence used by the Bush Administration to justify the use of force in Iraq was either exaggerated or simply wrong;

Whereas President George W. Bush stated that the mission in Iraq was to rid that country of weapons of mass destruction;

Whereas weapons of mass destruction have not been found in Iraq;

Whereas President George W. Bush then stated that the mission in Iraq was to end the regime of Saddam Hussein and free the people of Iraq;

Whereas Saddam Hussein is in custody and standing trial for crimes against humanity;

Whereas President George W. Bush then stated that the mission in Iraq was to establish a free, self governing, and democratic Iraq;

Whereas the people of Iraq elected their first permanent democratically elected government on December 15, 2005, and the cabinet of Prime Minister Nouri al-Maliki has been approved by the Parliament of Iraq, concluding the transition of Iraq to full political sovereignty;

Whereas President George W. Bush then stated that the mission in Iraq was to train the security forces of Iraq so that they can do the fighting in Iraq;

Whereas the Pentagon reports that more than 240,000 military and police personnel of Iraq are now trained and equipped;

Whereas on May 1, 2003, President George W. Bush stood under a banner proclaiming "Mission Accomplished" and declared that Iraq was an ally of al Qaeda;

Whereas the report of the 9/11 Commission found no collaborative operational relationship between Iraq and al Qaeda;

Whereas the commander of the Multi-national Forces Iraq, General George Casey, testified before the Senate Committee on Armed Services on September 29, 2005, that "[i]ncreased coalition presence feeds the notion of occupation . . . contributes to the dependency of Iraqi security forces on the coalition . . . [and] extends the amount of time that it will take for Iraqi security forces to become self reliant"; and

Whereas, according to a January 2006 poll, 64 percent of Iraqis believe that crime and violent attacks will decrease when the United States redeploys from Iraq, 67 percent of Iraqis believe that their day-to-day security will increase if the United States redeploys from Iraq, and 73 percent of Iraqis believe that there will be greater cooperation among the political factions of Iraq when the United States redeploys from Iraq: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) United States military forces in Iraq are to be redeployed from Iraq by December 31, 2006, or earlier if practicable;

(2) nothing in this resolution prohibits the use of United States military forces from training Iraqi security forces in the region outside of Iraq; and

(3) nothing in this resolution prohibits the use of United States military forces based outside of Iraq to—

(A) conduct targeted and specialized counter-terrorism missions in Iraq; and

(B) protect military and civilian personnel of the United States in Iraq.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 500—EXPRESSING THE SENSE OF CONGRESS THAT THE RUSSIAN FEDERATION SHOULD FULLY PROTECT THE FREEDOMS OF ALL RELIGIOUS COMMUNITIES WITHOUT DISTINCTION, WHETHER REGISTERED OR UNREGISTERED, AS STIPULATED BY THE RUSSIAN CONSTITUTION AND INTERNATIONAL STANDARDS

Mr. BROWNBACK (for himself, Mr. BIDEN, Mr. SMITH, and Mr. NELSON of Florida) submitted the following resolution; which was referred to the Committee on Foreign Relations:

Mr. BROWNBACK. Mr. President, I rise today to introduce a resolution whereby the Senate calls upon the Government of the Russian Federation to fully protect the right of individuals to worship and to practice their faith as they see fit. This resolution reiterates provisions on religious freedom that are contained within the Russian Constitution of 1993 and international agreements to which the Russian Federation is a party.

I am especially appreciative for the co-sponsorship of this important resolution by my colleagues and friends, the senior Senator from Delaware, Mr. BIDEN, the junior Senator from Oregon, Mr. SMITH, and the senior Senator from Florida, Mr. NELSON.

It is true that religious practice in Russia today is much freer than during the Soviet era. However, many minority religious communities throughout the Russian Federation continue to suffer harassment and discrimination on the part of some local officials who, either through personal prejudice or misplaced paranoia, see a threat to their society by religious faiths with whom they are unfamiliar.

Until fairly recently, the U.S. Helsinki Commission, which I chair, was receiving troubling reports of several instances of violence against religious minorities in Russia. Arson attacks against churches in Russia have occurred in several towns and cities with little or no police response. I would note that reports of such attacks have decreased in number of late.

I would like to quote from the International Religious Freedom Report for 2005, which is published by the State Department Office on International Religions Freedom annually:

Some Federal agencies and many local authorities continue to restrict the rights of various religious minorities. Moreover, contradictions between Federal and local laws and varying interpretations of the law provide regional officials with opportunities to restrict the activities of religious minorities. Many observers attribute discriminatory practices at the local level to the greater susceptibility of local governments than the Federal Government to discriminatory attitudes in lobbying by local majority religious groups. The government only occasionally intervenes to prevent or reverse discrimination at the local level.

Mr. President, on April 14, 2005, the Helsinki Commission held hearings on the treatment of religious minorities in Russia. Mr. Larry Uzzell, a journalist and researcher specializing in religious liberty issues, noted that Russian bureaucrats had increased the pressure on minority religious confessions, especially by denying them places to worship.

In March 2004, a city court banned the religious activity of Jehovah's Witnesses in Moscow. Since that time, officials in St. Petersburg have been threatening to "liquidate" the Jehovah's Witnesses Administration Center in that city. If the administrative center were to cease to exist, the effect on local congregations could be devastating. Just this month, police in Ivanovo, Russia, reportedly broke up an evangelical event where Bibles were being distributed and detained three members. Catholic parishes in the cities of Sochi and Rostov-on-Don have also had difficulty with local officials in obtaining official permission to use their new church buildings.

Concerning anti-Semitism, on January 11 of this year a "skinhead" attacked worshipers with a knife and

wounded eight persons in the Moscow Headquarters and Synagogue of Agudas Chasidei Chabad of the Former Soviet Union. Thankfully, the Moscow City Court sentenced the attacker to 13 years in prison for attempted murder. However, a copycat attack that followed in Rostov-on-Don was not handled as well, with the perpetrator only being charged with "hooliganism" and given 5 days administrative detention. I urge Russian authorities to be more consistent with their response to these heinous crimes.

Another difficult situation is that of Muslim believers in Russia today, with officials often harassing communities practicing outside of government approved mosques. For instance, there are repeated and credible reports that police are arresting Russian Muslim citizens on charges of terrorism on the basis of fabricated evidence. Certainly Russia has a right to defend itself from terrorism, but I would urge authorities not to sow the seeds of further bitterness and violence through wholesale arrests and unjust trials.

Mr. President, I certainly don't want to suggest that all Russian officials are hostile to religious faith and practice. There are countries with worse far records, and there are many areas of the Russian Federation where the principles of religious freedom are genuinely observed and still others where progress is being made. Moreover, many officials at the federal level have made sincere efforts to see that their government observes its own laws as well as international standards.

This resolution reminds the leadership of the Russian Federation of the critical importance of enforcing Russian constitution and Russia's international commitments on religious freedom. Considering Russia's presidency of the G-8, a grouping of the world's major industrialized democracies, it is time to live up to the standards of religious liberty that characterize the nations of the G-8 and the community of democracies as a whole.

I urge my colleagues to support this resolution.

S. RES. 500

Whereas the Russian Federation is a participating State of the Organization for Security and Cooperation in Europe (OSCE) and has freely committed to fully respect the rights of individuals, whether alone or in community with others, to profess and practice religion or belief;

Whereas the 1989 Vienna Concluding Document calls on OSCE participating States to "take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief" and to "grant upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their States, recognition of the status provided for them in the respective countries";

Whereas Article 28 of the Constitution of the Russian Federation declares that "every-one shall be guaranteed the right to freedom of conscience, to freedom of religious worship, including the right to profess, individually or jointly with others, any religion"

and Article 8 of the 1997 Law on Freedom of Conscience and Religious Associations provides for registration for religious communities as "religious organizations," if they have at least 10 members and have operated within the Russian Federation with legal status for at least 15 years;

Whereas religious freedom has advanced significantly for the vast majority of people in Russia since the collapse of the Soviet Union;

Whereas many rights and privileges afforded to religious communities in the Russian Federation remain contingent on the ability of the communities to obtain government registration;

Whereas some religious groups have not attempted to register with government authorities due to theological considerations, and other communities have been unjustly denied registration or had their registration improperly terminated by local authorities;

Whereas many of the unregistered communities in the Russian Federation today were never registered under the Soviet system because they refused to collaborate with that government's anti-religious policies and they are now experiencing renewed discrimination and repression by authorities of the Russian Federation;

Whereas over the past 2 years there have been an estimated 10 arson attacks on unregistered Protestant churches, with little or no effective response by law enforcement officials to bring the perpetrators to justice;

Whereas the Government of the Russian Federation reacted swiftly in response to the January 2006 attack on a Moscow synagogue, but there have been numerous other anti-Semitic attacks against Jews and Jewish institutions in the Russian Federation, and there is increasing tolerance of anti-Semitism in certain segments of society in that country;

Whereas there has been evidence of an increase in the frequency and severity of oppressive actions by security forces and federal and local officials against some Muslim communities and their members;

Whereas there are many cases involving restitution for religious property seized by the Soviet regime that remain unresolved;

Whereas in some areas of the Russian Federation law enforcement personnel have carried out acts of harassment and oppression against members of religious communities peacefully practicing their faith and local officials have put overly burdensome restrictions on the ability of some religious communities to engage in religious activity; and

Whereas the United States has sought to protect the fundamental and inalienable right of individuals to profess and practice their faith, alone or in community with others, according to the dictates of their conscience, and in accordance with international agreements committing nations to respect individual freedom of thought, conscience, and belief: Now, therefore, be it

Now, therefore, be it

Resolved, That it is the sense of Congress that the United States Government should—

(1) urge the Government of the Russian Federation to ensure full protection of freedoms for all religious communities without distinction, whether registered or unregistered, and end the harassment of unregistered religious groups by the security apparatus and other government agencies, thereby building upon the progress made over the past 15 years in promoting religious freedom in the Russian Federation;

(2) urge the Government of the Russian Federation to ensure that law enforcement officials vigorously investigate and prosecute acts of violence, arson, and desecration perpetrated against registered and unregistered religious communities, as well as make

certain that government authorities are not complicit in such incidents;

(3) continue to raise concerns with the Government of the Russian Federation over violations of religious freedom, including those against unregistered religious communities, especially indigenous denominations not well known in the United States;

(4) ensure that United States Embassy officials engage local officials throughout the Russian Federation, especially when violations of freedom of religion occur, and undertake outreach activities to educate local officials about the rights of unregistered religious communities;

(5) urge the Government of the Russian Federation to invite the three Personal Representatives of the OSCE Chair-in-Office and the United Nations Special Rapporteur on Freedom of Religion or Belief to visit the Russian Federation and discuss with federal and local officials concerns about the religious freedom of both registered and unregistered religious communities; and

(6) urge the Council of Europe, its member countries, and the other members of the G-8 to raise issues relating to religious freedom with Russian officials in the context of the Russian Federation's responsibilities both as President of the Council in 2006 and as a member of the G-8.

SENATE RESOLUTION 501—COM-MENDING THE UNIVERSITY OF VIRGINIA CAVALIERS MEN'S LACROSSE TEAM FOR WINNING THE 2006 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I NATIONAL LACROSSE CHAMPIONSHIP.

Mr. ALLEN (for himself and Mr. WARNER) submitted the following resolution; which was considered and agreed to:

S. RES. 501

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment to, and pride in, the University of Virginia Cavaliers national champion men's lacrosse team;

Whereas the University of Virginia Cavaliers men's lacrosse team won the National Collegiate Athletic Association (NCAA) championship game 15-7 against the University of Massachusetts Amherst Minutemen, and became the first team in NCAA history to finish with a 17-0 record and the 12th team in NCAA history to win the national championship with an undefeated record;

Whereas the University of Virginia Cavaliers men's lacrosse team won the 2006 NCAA Division I National Championship, which was dominated by the Cavaliers possession, due to the impressive play of Drew Thompson who won 8 out of 12 face offs, goals scored by Matt Poskay, Ben Rubeor, Kyle Dixon, and Danny Glading, sparkling goaltending by Kip Turner, and the outstanding performance of NCAA Men's Division I Lacrosse Tournament's Most Outstanding Player Matt Ward;

Whereas the University of Virginia Cavaliers men's lacrosse team added the Division I title to 5 previous national championships;

Whereas every player on the University of Virginia lacrosse team, Will Barrow, Garrett Billings, Mike Britt, Douglas Brody, Patrick Buchanan, Kevin Coale, Chris Conlon, Michael Culver, Joe Dewey, Kyle Dixon, Adam Fassnacht, Drew Garrison, Steve Giannone, Foster Gilbert, Gavin Gill, Danny Glading, Charlie Glazer, Pike Howard, Drew Jordan, Matt Kelly, Ryan Kelly, James King, Jared

Little, J.J. Morrissey, Chris Ourisman, Matt Paquet, Michael "Bud" Petit, Derek Pilipiak, Max Pomper, Matt Poskay, Jack Riley, Ben Rubeor, Tim Shaw, Ricky Smith, Drew Thompson, Mike Timms, Kip Turner, Mark Wade, and Matt Ward, contributed to the team's success in this undefeated championship season;

Whereas the University of Virginia Cavaliers outstanding, creative, and motivational lacrosse Head Coach Dom Starsia has had a successful 14-year tenure as the University of Virginia's head lacrosse coach that includes 3 NCAA Division I Men's Lacrosse National Championships; and

Whereas Assistant Coaches Marc Van Arsdale and Hannon Wright deserve high commendation for their strong leadership and superb coaching support, as well as the dedication of team staff members Lorenzo Rivers, Katie Serenelli, Matt Diehl, Jade White, and Dr. Danny Mistry to the University of Virginia Cavaliers men's lacrosse team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Virginia Cavaliers men's lacrosse team for winning the 2006 National Collegiate Athletic Association Division I, National Championship; and

(2) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to Dom Starsia of the National Champion University of Virginia Cavaliers and a copy to John T. Casteen III, the president of the University of Virginia.

SENATE RESOLUTION 502—CONGRATULATING ALL THE CONTESTANTS OF THE 2006 SCRIPPS NATIONAL SPELLING BEE

Mr. LAUTENBERG (for himself and Mr. MENDEDEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 502

Whereas the Scripps National Spelling Bee is the largest and longest-running educational promotion in the United States, and is administered by the E.W. Scripps Company and 268 local sponsors, most of whom publish daily and weekly newspapers;

Whereas the 2006 Scripps National Spelling Bee began with 275 competitors from across the United States, American Samoa, the Bahamas, Canada, Europe, Guam, Jamaica, New Zealand, Puerto Rico, and the Virgin Islands, each of whom had qualified for the contest by winning locally-sponsored spelling bees;

Whereas Miss Katharine "Kerry" Close is an 8th-grade student at the H.W. Mountz School in Spring Lake, New Jersey;

Whereas the 13-year-old Miss Close first competed in the Scripps National Spelling Bee as a 9-year-old, tied for 7th place in 2005, and competed for the 5th time this year, sponsored by the Asbury Park Press and the Home News Tribune;

Whereas Miss Close has spent between 1 hour and 2 hours a day looking up words and their origins during the previous 5 years, yet has still found time for sailing, playing soccer, and going to the mall and the movies with her friends;

Whereas Miss Close survived 19 rounds of fierce competition this year and won the 2006 Scripps National Spelling Bee in the 20th round by correctly spelling "ursprache", which is defined as "a parent language, especially one reconstructed from the evidence of later languages"; and

Whereas the achievement of Miss Close brings an immense sense of pride to H.W. Mountz School, her hometown of Spring

Lake, and the entire State of New Jersey: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates all of the contestants of the 2006 Scripps National Spelling Bee; and

(2) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to the H.W. Mountz School, located in Spring Lake, New Jersey.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4189. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2012, to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes; which was ordered to lie on the table.

SA 4190. Mr. McCONNELL (for Mr. STEVENS) proposed an amendment to the bill S. 2013, to amend the Marine Mammal Protection Act of 1972 to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population.

SA 4191. Mr. McCONNELL (for Ms. SNOWE) proposed an amendment to the bill S. 457, to require the Director of the Office of Management and Budget to issue guidance for, and provide oversight of, the management of micropurchases made with Governmentwide commercial purchase cards, and for other purposes.

TEXT OF AMENDMENTS

SA 4189. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2012, to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 64, line 10, insert “(a) IN GENERAL.—” before “Title”.

On page 68, between line 2 and 3, insert the following:

(b) OREGON AND CALIFORNIA SALMON FISHERY.—Within 30 days after the date of enactment of this Act, the Secretary of Commerce shall initiate assistance under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) and section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) for the 2006 Oregon and California fall Chinook salmon fishery to the same extent and in the same manner as if the Secretary had determined on the date of enactment of this Act that, with respect to that fishery, there is—

(A) a commercial fishery failure under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)); and

(B) a fishery resource disaster under section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).

SA 4190. Mr. McCONNELL (for Mr. STEVENS) proposed an amendment to the bill S. 2013, to amend the Marine Mammal Protection Act of 1972 to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population; as follows:

On page 20, line 16, strike “\$3,000,000” and insert “\$1,000,000”.

On page 20, line 20, strike “\$500,000” and insert “\$150,000”.

On page 20, line 25, strike “\$500,000” and insert “\$150,000”.

SA 4191. Mr. McCONNELL (for Ms. SNOWE) proposed an amendment to the bill S. 457, to require the Director of the Office of Management and Budget to issue guidance for, and provide oversight of, the management of micropurchases made with Governmentwide commercial purchase cards, and for other purposes; as follows:

On page 3, between lines 3 and 4, insert the following:

(6) Analysis of purchase card expenditures to identify opportunities for achieving and accurately measuring fair participation of small business concerns in micro-purchases consistent with the national policy on small business participation in Federal procurements set forth in sections 2(a) and 15(g) of the Small Business Act (15 U.S.C. 631(a) and 644(g)), and dissemination of best practices for participation of small business concerns in micro-purchases.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on “Examining DOJ’s Investigation of Journalists Who Publish Classified Information: Lessons from the Jack Anderson Case” on Tuesday, June 6, 2006 at 9:30 a.m. in Dirksen Senate Office Building room 226.

Witness list

Panel I: Matthew Friedrich, Chief of Staff for the Criminal Division, Department of Justice, Washington, DC.

Panel II: Rodney Smolla, Dean and Professor, University of Richmond School of Law, Richmond, VA; Gabriel Schoenfeld, Senior Editor, Commentary, New York, NY; Kevin N. Anderson, Fabian & Clendenin, Salt Lake City, UT; Mark Feldstein, Director of Journalism Program and Associate Professor of Media and Public Affairs, School of Media and Public Affairs, George Washington University, Washington, DC.

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

COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Tuesday, June 6, 2006, at 2:30 p.m. in the Dirksen Senate Office Building room 226. The agenda will be provided when it becomes available.

Matters

Discussion of the possibility of subpoenas and a closed session for a Telecom/NSA Information Sharing hearing.

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

SUBCOMMITTEE ON CONSUMER AFFAIRS, PRODUCT SAFETY, AND INSURANCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Sen-

ate Committee on Commerce, Science, and Transportation Subcommittee on Consumer Affairs, Product Safety, and Insurance be authorized to meet on Tuesday, June 6, 2006, at 10 a.m. on Compliance with All-Terrain Vehicle Standards.

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

PRIVILEGES OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent Kumar Garg, an intern from the Senate Judiciary Committee Subcommittee on Constitution, be granted floor privileges for the duration of the debate on Senate Joint Resolution 1, the Federal Marriage Amendment.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that floor privileges be granted to two legal fellows on my staff, Jon Donenberg and Norah Bringer, for the remainder of the Senate session.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Scott McDonauld of my staff be granted the privileges of the floor for the duration of today’s session.

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

The PRESIDING OFFICER. The Senator from Kentucky.

UNANIMOUS CONSENT REQUEST— H.R. 5403

Mr. McCONNELL. I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 5403, the Safe and Timely Interstate Placement of Foster Children Act, that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, on behalf of Democrats, I must object.

The PRESIDING OFFICER. Objection is heard.

DEATH TAX REPEAL PERMANENCY ACT OF 2005—MOTION TO PROCEED

CLOTURE MOTION

Mr. McCONNELL. I now move to proceed to Calendar No. 84, H.R. 8, related to the repeal of the death tax. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 84, H.R. 8: to make the repeal of the estate tax permanent.

Bill Frist, Jon Kyl, Jim Bunning, Conrad Burns, Richard Burr, Tom Coburn, Wayne Allard, Craig Thomas, George Allen, Judd Gregg, Johnny Isakson, David Vitter, John Thune, Mike Crapo, Jeff Sessions, John Ensign, Rick Santorum.

Mr. McCONNELL. I now withdraw my motion to proceed.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005— MOTION TO PROCEED

CLOTURE MOTION

Mr. McCONNELL. I move to proceed to Calendar No. 101, S. 147, a bill related to Native Hawaiians.

On behalf of the Democratic minority, I send a motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 101, S. 147, Native Hawaiians Governing Entity.

Daniel K. Akaka, Daniel K. Inouye, Charles Schumer, Jack Reed, Patrick Leahy, Joe Biden, Barbara Mikulski, Evan Bayh, Barbara Boxer, Frank Lautenberg, Harry Reid, Jay Rockefeller, Richard Durbin, Jeff Bingaman, Edward Kennedy, Herb Kohl, James M. Jeffords, Mark Dayton, Jon Kyl, Norm Coleman.

Mr. McCONNELL. Mr. President, I ask unanimous consent the live quorums required under rule XXII be waived.

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

Mr. McCONNELL. Mr. President and Members of the Senate, a clarification. These cloture votes will occur on Thursday. We will set aside some time for debate on both of these issues tomorrow afternoon.

COMMENDING THE UNIVERSITY OF VIRGINIA CAVALIERS MEN'S LACROSSE TEAM

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of S. Res. 501, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 501) commending the University of Virginia Cavaliers men's lacrosse team for winning the 2006 National Collegiate Athletic Association Division I National Lacrosse Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider by laid upon the table.

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

The resolution (S. Res. 501) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 501

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment to, and pride in, the University of Virginia Cavaliers national champion men's lacrosse team;

Whereas the University of Virginia Cavaliers men's lacrosse team won the National Collegiate Athletic Association (NCAA) championship game 15-7 against the University of Massachusetts Amherst Minutemen, and became the first team in NCAA history to finish with a 17-0 record and the 12th team in NCAA history to win the national championship with an undefeated record;

Whereas the University of Virginia Cavaliers men's lacrosse team won the 2006 NCAA Division I National Championship, which was dominated by the Cavaliers possession, due to the impressive play of Drew Thompson who won 8 out of 12 face offs, goals scored by Matt Poskay, Ben Rubeor, Kyle Dixon, and Danny Glading, sparkling goaltending by Kip Turner, and the outstanding performance of NCAA Men's Division I Lacrosse Tournament's Most Outstanding Player Matt Ward;

Whereas the University of Virginia Cavaliers men's lacrosse team added the Division I title to 5 previous national championships;

Whereas every player on the University of Virginia lacrosse team, Will Barrow, Garrett Billings, Mike Britt, Douglas Brody, Patrick Buchanan, Kevin Coale, Chris Conlon, Michael Culver, Joe Dewey, Kyle Dixon, Adam Fassnacht, Drew Garrison, Steve Giannone, Foster Gilbert, Gavin Gill, Danny Glading, Charlie Glazer, Pike Howard, Drew Jordan, Matt Kelly, Ryan Kelly, James King, Jared Little, J.J. Morrissey, Chris Ourisman, Matt Paquet, Michael "Bud" Petit, Derek Pilipiak, Max Pomper, Matt Poskay, Jack Riley, Ben Rubeor, Tim Shaw, Ricky Smith, Drew Thompson, Mike Timms, Kip Turner, Mark Wade, and Matt Ward, contributed to the team's success in this undefeated championship season;

Whereas the University of Virginia Cavaliers outstanding, creative, and motivational lacrosse Head Coach Dom Starsia has had a successful 14-year tenure as the University of Virginia's head lacrosse coach that includes 3 NCAA Division I Men's Lacrosse National Championships; and

Whereas Assistant Coaches Marc Van Arsdale and Hannon Wright deserve high commendation for their strong leadership and superb coaching support, as well as the dedication of team staff members Lorenzo Rivers, Katie Serenelli, Matt Diehl, Jade White, and Dr. Danny Mistry to the University of Virginia Cavaliers men's lacrosse team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Virginia Cavaliers men's lacrosse team for winning the 2006 National Collegiate Athletic Association Division I, National Championship; and

(2) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to Dom Starsia of the National Champion University of Virginia

Cavaliers and a copy to John T. Casteen III, the president of the University of Virginia.

CONGRATULATING CONTESTANTS OF THE 2006 SCRIPPS SPELLING BEE

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 502, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 502) congratulating all of the contestants of the 2006 Scripps National Spelling Bee.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LAUTENBERG. Mr. President, I rise today to congratulate the young men and women who competed in the 79th annual Scripps National Spelling Bee last week. I would like to extend special praise to Miss Katharine "Kerry" Close for winning this demanding competition. Miss Close is an eighth grade student at the H.W. Mountz School in Spring Lake, NJ, and was sponsored by the Asbury Park Press and the Home News Tribune. Other New Jersey participants included Serenity Fung of Faith Hope Love Academy in Somerset, Joseph Reed of Deerfield Township Elementary School in Rosenhayn, Austin Tamutus of MacFarland Junior School in Bordentown, Tianqi Wang of Ramapo Ridge Middle School in Mahwah, and Nisha Sadanand Naik of St. Anne's Parish School in Jersey City. I am proud of all of them.

Miss Close—showing true grace under pressure—won in the 20th round by correctly spelling "ursprache," which is defined as "a parent language, especially one reconstructed from the evidence of later languages." Miss Close is a five-time veteran of the National Spelling Bee, first competing when she was 9. She tied for seventh place last year. Over the past 5 years, Miss Close has spent between 1 and 2 hours each day looking up words and their origins in order to prepare for the contests. Her dedication should serve as an inspiration to all of us.

The 2006 Scripps National Spelling Bee, which is administered by the E.W. Scripps Company and 268 local sponsors, is the largest and longest running educational promotion in the United States. This competition began with 275 competitors from across the United States, American Samoa, the Bahamas, Canada, Europe, Guam, Jamaica, New Zealand, Puerto Rico, and the U.S. Virgin Islands who qualified for the contest by winning locally sponsored spelling bees.

I hope that my colleagues will join me in congratulating Miss Close and the other 274 competitors in this year's Scripps National Spelling Bee.

Mr. McCONNELL. Mr. President, I ask unanimous consent the resolution

be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 502) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 502

Whereas the Scripps National Spelling Bee is the largest and longest-running educational promotion in the United States, and is administered by the E.W. Scripps Company and 268 local sponsors, most of whom publish daily and weekly newspapers;

Whereas the 2006 Scripps National Spelling Bee began with 275 competitors from across the United States, American Samoa, the Bahamas, Canada, Europe, Guam, Jamaica, New Zealand, Puerto Rico, and the Virgin Islands, each of whom had qualified for the contest by winning locally-sponsored spelling bees;

Whereas Miss Katharine "Kerry" Close is an 8th-grade student at the H.W. Mountz School in Spring Lake, New Jersey;

Whereas the 13-year-old Miss Close first competed in the Scripps National Spelling Bee as a 9-year-old, tied for 7th place in 2005, and competed for the 5th time this year, sponsored by the Asbury Park Press and the Home News Tribune;

Whereas Miss Close has spent between 1 hour and 2 hours a day looking up words and their origins during the previous 5 years, yet has still found time for sailing, playing soccer, and going to the mall and the movies with her friends;

Whereas Miss Close survived 19 rounds of fierce competition this year and won the 2006 Scripps National Spelling Bee in the 20th round by correctly spelling "ursprache", which is defined as "a parent language, especially one reconstructed from the evidence of later languages"; and

Whereas the achievement of Miss Close brings an immense sense of pride to H.W. Mountz School, her hometown of Spring Lake, and the entire State of New Jersey: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates all of the contestants of the 2006 Scripps National Spelling Bee; and

(2) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to the H.W. Mountz School, located in Spring Lake, New Jersey.

UNITED STATES-RUSSIA POLAR BEAR CONSERVATION AND MANAGEMENT ACT OF 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 365, S. 2013.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2013) to amend the Marine Mammal Protection Act of 1972 to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. I ask unanimous consent the amendment at the desk be agreed to, the bill, as amended, be read

the third time and passed, the motion to reconsider be laid upon the table and any statements be printed in the RECORD.

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

The amendment (No. 4190) was agreed to, as follows:

(Purpose: To reduce the amount authorized to be appropriated for each of the fiscal years)

On page 20, line 16, strike "\$3,000,000" and insert "\$1,000,000".

On page 20, line 20, strike "\$500,000" and insert "\$150,000".

On page 20, line 25, strike "\$500,000" and insert "\$150,000".

The bill (S. 2013), as amended, was ordered to be engrossed for a third reading, read the third time and passed, as follows:

S. 2013

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 "United States-Russia Polar Bear Conservation and Management Act of 2005".

SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end thereof the following:

"TITLE V—ALASKA-CHUKOTKA POLAR BEARS

"SEC. 501. DEFINITIONS.

"In this title:

"(1) AGREEMENT.—The term 'Agreement' means the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed at Washington, D.C., on October 16, 2000.

"(2) ALASKA NANUUQ COMMISSION.—The term 'Alaska Nanuuq Commission' means the Alaska Native entity, in existence on the date of enactment of this Act, that represents all villages in the State of Alaska that engage in the annual subsistence taking of polar bears from the Alaska-Chukotka population and any successor entity.

"(3) IMPORT.—The term 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, without regard to whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

"(4) NATIVE PEOPLE.—The term 'Native people' has the meaning given the term in the Agreement.

"(5) POLAR BEAR PART OR PRODUCT.—The term 'part or product of a polar bear' means any polar bear part or product, including the gall bile and gall bladder.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(7) TAKING.—The term 'taking' means hunting, capturing, or killing a polar bear.

"(8) UNITED STATES-RUSSIA POLAR BEAR COMMISSION.—The term 'United States-Russia Polar Bear Commission' means the binational commission established under article 8 of the Agreement.

"(9) UNITED STATES SECTION.—The term 'United States Section' means the commissioners appointed by the President under section 505 of this title.

"SEC. 502. PROHIBITIONS.

"(a) IN GENERAL.—It is unlawful for any person—

"(1) to take any polar bear in violation of the Agreement;

"(2) to take any polar bear in violation of any annual taking limit or other restriction on the taking of polar bears that is adopted by the United States-Russia Polar Bear Commission pursuant to the Agreement;

"(3) to import, export, possess, transport, sell, receive, acquire, purchase, exchange, barter, or offer to sell, exchange, or barter any polar bear, or any part or product of a polar bear, that is taken in violation of the Agreement or any limit or restriction on taking that is adopted by the United States-Russia Polar Bear Commission;

"(4) to import, export, possess, transport, sell, receive, acquire, purchase, exchange, or barter, offer to sell, exchange, or barter, polar bear gall bile or a polar bear gall bladder;

"(5) to attempt to commit, solicit another person to commit, or cause to be committed, any offense under this subsection; or

"(6) to violate any regulation promulgated by the Secretary to implement any of the prohibitions established in this subsection.

"(b) EXCEPTIONS.—For the purpose of forensic testing or any other law enforcement purpose, a government official may import a polar bear or any part or product of a polar bear.

"SEC. 503. ADMINISTRATION AND ENFORCEMENT.

"(a) IN GENERAL.—The Secretary, acting through the United States Fish and Wildlife Service, shall do all things necessary and appropriate, including the promulgation of regulations, to implement, enforce, and administer the provisions of the Agreement on behalf of the United States. The Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the Alaska Nanuuq Commission on matters involving the implementation of the Agreement. The Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency, any State agency, or the Alaska Nanuuq Commission for purposes of carrying out this title or the Agreement. Any person authorized by the Secretary under this subsection to enforce this title or the Agreement shall have the powers and authorities that are enumerated in section 6(b) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(b)).

"(b) FORFEITURE.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—A polar bear, or any part or product of a polar bear, that is (or attempted to be) imported, exported, taken, possessed, transported, sold, received, acquired, purchased, exchanged, or bartered or offered for sale, exchange, or barter, or purchase, in violation of this title, shall be subject to seizure and forfeiture to the United States without any showing that may be required for assessment of a civil penalty or for criminal prosecution.

"(B) EQUIPMENT.—Each gun, trap, net, or other equipment used, and any vessel, vehicle, aircraft, or other means of transportation used, to aid in the violation or attempted violation of this title shall be subject to forfeiture to the United States upon conviction of a criminal violation in accordance with subsection (e).

"(2) INSPECTION.—

"(A) IN GENERAL.—Any person authorized by the Secretary, the Secretary of the Treasury, the Secretary of Homeland Security, or the Secretary of Commerce to enforce this title may—

"(i) detain and inspect any container, including the contents of the container, and all accompanying documents, upon importation or exportation of the container;

"(ii) search and, if the container is found to contain a polar bear or part or product of

a polar bear, seize the package, crate, or container, and any documentation associated with it, with or without a warrant.

“(B) TREATMENT OF SEIZED MATERIALS.—

“(i) IN GENERAL.—Except as provided in clause (ii), any polar bear, or any part or product of a polar bear, seized under this section shall be held by any person authorized by the Secretary, the Secretary of the Treasury, the Secretary of Homeland Security, or the Secretary of Commerce pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of the polar bear, part, or product, in accordance with this subsection.

“(ii) BOND.—Subject to clause (iii), in lieu of holding a polar bear or any part or product of a polar bear described in clause (i), the Secretary may permit the owner to post a bond or other surety satisfactory to the Secretary.

“(iii) DISPOSAL.—Upon forfeiture of any property to the United States under this subsection, or the abandonment or waiver of any claim to any such property, the property shall be disposed of by the Secretary in such a manner, consistent with the purposes of this title, as the Secretary shall by regulation prescribe.

“(3) APPLICABLE LAW.—

“(A) IN GENERAL.—Subject to subparagraph (B), the following provisions of law described in subparagraph (B) shall apply to all seizures and forfeitures carried out under this title:

“(i) All provisions of law relating to the seizure, forfeiture, and condemnation of property for violation of the customs laws.

“(ii) All provisions of law relating to the disposition of seized or forfeited property or the proceeds from the sale of that property.

“(iii) All provisions of law relating to the remission or mitigation of that forfeiture.

“(iv) Section 981 of title 18, United States Code.

“(B) EXCEPTION.—All powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of Treasury shall, for the purpose of this title, be exercised or performed by—

“(i) the Secretary or the Secretary's designee; or

“(ii) such persons as the Secretary may designate.

“(c) CIVIL PENALTIES.—

“(1) PENALTIES.—

“(A) IN GENERAL.—Any person who knowingly engages in conduct prohibited by section 502, or who in the exercise of due care should know that the person is engaging in conduct prohibited by section 502, may be assessed a civil penalty by the Secretary of not more than \$50,000 for each violation.

“(B) NOTICE AND OPPORTUNITY FOR HEARING.—No penalty may be assessed against a person under this paragraph unless the person is given notice and opportunity for a hearing with respect to the violation for which the penalty is assessed.

“(C) SEPARATE OFFENSES.—Each violation shall be a separate offense.

“(D) REMISSION AND MITIGATION.—A civil penalty assessed under this paragraph may be remitted or mitigated by the Secretary.

“(E) CIVIL ACTION.—Upon any failure by a person to pay a civil penalty assessed under this paragraph—

“(i) the Secretary may request the Attorney General to bring a civil action in the United States district court for any district in which the person is found, resides, or transacts business to collect the penalty; and

“(ii) the court shall have jurisdiction to hear and decide any such action.

“(F) STANDARD.—A court shall hear and sustain a civil action by the Secretary under subparagraph (E) if the civil action is sup-

ported by substantial evidence on the record considered as a whole.

“(2) PROCEDURE.—

“(A) IN GENERAL.—A hearing held during proceedings for the assessment of a civil penalty under paragraph (1) shall be conducted in accordance with section 554 of title 5, United States Code.

“(B) SUBPOENAS.—The Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths.

“(C) REIMBURSEMENT OF WITNESSES.—A witness summoned to appear in a proceeding under this paragraph shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

“(D) CONTUMACY.—In case of contumacy or refusal to obey a subpoena served upon any person under this paragraph—

“(i) the United States district court for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary, to appear and produce documents before the Secretary, or both; and

“(ii) any failure to obey such an order of the court may be punished by the court as a contempt of the court.

“(d) CRIMINAL PENALTIES.—A person who knowingly violates section 502 shall be fined not more than \$100,000 for each such violation, imprisoned not more than 1 year, or both.

“(e) DISTRICT COURT JURISDICTION.—

“(1) IN GENERAL.—The United States district courts, including the courts specified in section 460 of title 28, United States Code, shall have jurisdiction over any action arising under this title.

“(2) ALASKAN CASES.—Notwithstanding paragraph (1), the United States District Court for the district of Alaska shall have exclusive original jurisdiction of any action arising under this title for any violation committed, or alleged to have been committed, in Alaska.

“(f) OTHER ENFORCEMENT.—The importation or exportation of a polar bear, or any part or product of a polar bear, that is taken, possessed, transported, sold, received, acquired, purchased, exchanged, or bartered or offered for sale, exchange, or barter, or purchase, in violation of the Agreement or any limitation or restriction of the United States-Russia Polar Bear Commission shall be considered to be transportation of wildlife for the purpose of section 3(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3372(a)).

“(g) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to carry out this title and the Agreement.

“(2) ORDINANCES AND REGULATIONS.—If necessary to carry out this title and the Agreement, and to improve compliance with the annual taking limit or other restriction on taking adopted by the United States-Russia Polar Bear Commission and implemented by the Secretary in accordance with this title, the Secretary may promulgate regulations that adopt any ordinance or regulation that restricts the taking of polar bears for subsistence purposes if the ordinance or regulation has been promulgated by the Alaska Nanuq Commission.

“(h) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

“(i) SEVERABILITY.—If any provision of this title is, for any reason, found to be invalid by a court of competent jurisdiction, the judgment of the court—

“(1) shall not affect, impair, or invalidate the remaining provisions of this title; and

“(2) shall instead be confined in its operation to provision of the Act directly involved in the controversy in which the judgment is rendered.

“SEC. 504. DESIGNATION AND APPOINTMENT OF MEMBERS OF THE UNITED STATES SECTION OF THE COMMISSION; COMPENSATION, TRAVEL EXPENSES, AND CLAIMS.

“(a) DESIGNATION AND APPOINTMENT.—

“(1) IN GENERAL.—The United States shall be represented on the United States-Russia Polar Bear Commission by 2 United States commissioners.

“(2) APPOINTMENT.—The United States commissioners shall be appointed by the President, after taking into consideration the recommendations of—

“(A) the Secretary;

“(B) the Secretary of State;

“(C) the Speaker of the House of Representatives and the President pro tempore of the Senate; and

“(D) the Alaska Nanuq Commission.

“(3) QUALIFICATIONS.—With respect to the United States commissioners appointed under this subsection, in accordance with paragraph 2 of article 8 of the Agreement—

“(A) 1 United States commissioner shall be an official of the Federal Government;

“(B) 1 United States commissioner shall be a representative of the Native people of Alaska, and, in particular, the Native people for whom polar bears are an integral part of their culture; and

“(C) both commissioners shall be knowledgeable of, or have expertise in, polar bears.

“(4) SERVICE AND TERM.—Each United States commissioner shall serve—

“(A) at the pleasure of the President; and

“(B) for an initial 4-year term and such additional terms as the President shall determine.

“(5) VACANCIES.—

“(A) IN GENERAL.—Any individual appointed to fill a vacancy occurring before the expiration of any term of office of a United States commissioner shall be appointed for the remainder of that term.

“(B) MANNER.—Any vacancy on the United States-Russia Polar Bear Commission shall be filled in the same manner as the original appointment.

“(b) ALTERNATE COMMISSIONERS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Alaska Nanuq Commission, shall designate an alternate commissioner for each member of the United States Section.

“(2) DUTIES.—In the absence of a commissioner, an alternate commissioner may exercise all functions of the commissioner at any meetings of the United States-Russia Polar Bear Commission or of the United States Section.

“(3) REAPPOINTMENT.—An alternate commissioner—

“(A) shall be eligible for reappointment by the President; and

“(B) may attend all meetings of the United States Section.

“(c) DUTIES.—The members of the United States Section may carry out the functions and responsibilities described in article 8 of the Agreement in accordance with this title and the Agreement.

“(d) COMPENSATION AND EXPENSES.—

“(1) COMPENSATION.—A member of the United States Section shall serve without compensation.

“(2) TRAVEL EXPENSES.—A member of the United States Section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee

of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the United States-Russia Polar Bear Commission.

“(e) AGENCY DESIGNATION.—The United States Section shall, for the purpose of title 28, United States Code, relating to claims against the United States and tort claims procedure, be considered to be a Federal agency.

“SEC. 505. VOTES TAKEN BY THE UNITED STATES SECTION ON MATTERS BEFORE THE COMMISSION.

In accordance with paragraph 3 of article 8 of the Agreement, the United States Section shall vote on any issue before the United States-Russia Polar Bear Commission only if there is no disagreement between the 2 United States commissioners regarding the vote.

“SEC. 506. IMPLEMENTATION OF ACTIONS TAKEN BY THE COMMISSION.

“(a) IN GENERAL.—The Secretary shall take all necessary and appropriate actions to implement the decisions and determinations of the United States-Russia Polar Bear Commission under paragraph 7 of article 8 of the Agreement.

“(b) TAKING LIMITATION.—Not later than 60 days after the date on which the Secretary receives notice of the determination of the United States-Russia Polar Bear Commission of an annual taking limit, or of the adoption by the United States-Russia Polar Bear Commission of other restriction on the taking of polar bears for subsistence purposes, the Secretary shall publish a notice in the Federal Register announcing the determination or restriction.

“SEC. 507. COOPERATIVE MANAGEMENT AGREEMENT; AUTHORITY TO DELEGATE ENFORCEMENT AUTHORITY.

“(a) IN GENERAL.—The Secretary, acting through the United States Fish and Wildlife Service, may share authority under this title for the management of the taking of polar bears for subsistence purposes with the Alaska Nanuuq Commission.

“(b) DELEGATION.—To be eligible for the cooperative management authority described in subsection (a), the Alaska Nanuuq Commission—

“(1) shall have an active cooperative agreement with the Secretary under section 119 of this title for the conservation of polar bears;

“(2) shall meaningfully monitor compliance with this title and the Agreement by Alaska Natives; and

“(3) shall administer its co-management program for polar bears in accordance with—

“(A) this title;

“(B) the Agreement; and

“(C) the Agreement on the Conservation of Polar Bears, done at Oslo, November 15, 1973 (27 UST 3918; TIAS 8409).

“SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.

“(a) IN GENERAL.—The authority of the Secretary under this title is in addition to, and shall not affect the authority of the Secretary under, the other titles of this Act or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) or the exemption for Alaskan natives under section 101(b) of this Act.

“(b) CERTAIN PROVISIONS INAPPLICABLE.—The provisions of titles I through IV of this Act do not apply with respect to the implementation, enforcement, or administration of this title.”

“SEC. 509. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out the functions and responsibilities of the Secretary under this title and the Agreement \$1,000,000 for each of fiscal years 2006 through 2010.

“(b) COMMISSION.—There are authorized to be appropriated to the Secretary to carry out functions and responsibilities of the United States Section \$150,000 for each of fiscal years 2006 through 2010.

“(c) ALASKAN COOPERATIVE MANAGEMENT PROGRAM.—There are authorized to be appropriated to the Secretary to carry out this title and the Agreement in Alaska \$150,000 for each of fiscal years 2006 through 2010.”

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following:

TITLE V—ALASKA-CHUKOTKA POLAR BEARS

“Sec. 501. Definitions.

“Sec. 502. Prohibitions.

“Sec. 503. Administration and enforcement.

“Sec. 504. Designation and appointment of members of the United States Section of the Commission; compensation, travel expenses, and claims.

“Sec. 505. Votes taken by the United States Section on matters before the Commission.

“Sec. 506. Implementation of actions taken by the Commission.

“Sec. 507. Cooperative management agreement; authority to delegate enforcement authority.

“Sec. 508. Application with other titles of Act.

“Sec. 509. Authorization of appropriations.”

**PURCHASE CARD WASTE
ELIMINATION ACT OF 2006**

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 438, S. 457.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 457) to require the director of the Office of Management and Budget to issue guidance for, and provide oversight of, the management of micropurchases made with Governmentwide commercial purchase cards, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 457

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 “Purchase Card Waste Elimination Act of 2006”.

SEC. 2. REQUIREMENT FOR GUIDANCE.

(a) OFFICE OF MANAGEMENT AND BUDGET POLICY GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue guidelines to assist the heads of executive agencies in improving the management of the use of the Governmentwide commercial purchase card for making micropurchases. The Director shall include guidelines on the following matters:

(1) Analysis of purchase card expenditures to identify opportunities for achieving sav-

ings through micropurchases made in economical volumes.

(2) Negotiation of discount agreements with major vendors accepting the purchase card.

(3) Establishment of communication programs to ensure that purchase card holders receive information pertaining to the availability of discounts, including programs for the training of purchase card holders on the availability of discounts.

(4) Assessment of cardholder purchasing practices, including use of discount agreements.

(5) Collection and dissemination of best practices and successful strategies for achieving savings in micropurchases.

(b) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall [direct the purchase card program manager of the General Services Administration]—

(1) [to continue] *continue* efforts to improve reporting by financial institutions that issue the Governmentwide commercial purchase card so that the General Services Administration has the data needed to identify opportunities for achieving savings; and

(2) [to ensure that the acquisition center contracting officers of the General Services Administration] actively pursue point-of-sale discounts with major vendors accepting the purchase card so that any Federal Government purchaser using the purchase card can benefit from such point-of-sale discounts.

(c) AGENCY REPORTING REQUIREMENT.—[The purchase card program manager] *The senior procurement executive* for each executive agency shall, as directed by the Director of the Office of Management and Budget, submit to the Director periodic reports on the actions taken in such executive agency pursuant to the guidelines issued under subsection (a).

(d) CONGRESSIONAL OVERSIGHT.—Not later than December 31 of the year following the year in which this Act is enacted, and December 31 of each of the ensuing three years, the Director of the Office of Management and Budget shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report summarizing the progress made during the fiscal year ending in the year in which such report is due—

(1) in improving the management of the use of the Governmentwide commercial purchase card for making micropurchases; and

(2) in achieving savings in micropurchases made with such card, expressed in terms of [savings achieved by each executive agency] *average savings achieved by each executive agency in the use of discount agreements identified in subsection (a) and the total savings achieved Governmentwide.*

(e) DEFINITIONS.—In this section:

(1) The term “executive agency” has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) The term “micropurchase” means a purchase in an amount not in excess of the micropurchase threshold, as defined in section 32 of such Act (41 U.S.C. 428).

SEC. 3. PAYMENTS TO FEDERAL CONTRACTORS WITH FEDERAL TAX DEBT.

The General Services Administration, in conjunction with the Internal Revenue Service and the Financial Management Service, shall develop procedures to subject purchase card payments to Federal contractors to the Federal Payment Levy program.

SEC. 4. REPORTING OF AIR TRAVEL BY FEDERAL GOVERNMENT EMPLOYEES.

(a) ANNUAL REPORTS REQUIRED.—*The Administrator of the General Services shall submit annually to the Committee on Homeland Security*

and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on all first class and business class travel by employees of each executive agency undertaken at the expense of the Federal Government.

(b) **CONTENT.**—The reports submitted pursuant to subsection (a) shall include, at a minimum, with respect to each travel by first class or business class—

- (1) the names of each traveler;
- (2) the date of travel;
- (3) the points of origination and destination;
- (4) the cost of the first class or business class travel; and
- (5) the cost difference between such travel and travel by coach class.

(c) **EXECUTIVE AGENCY DEFINED.**—In this section, the term “executive agency” has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

Mr. McCONNELL. I ask unanimous consent that the committee-reported amendments be agreed to, the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The amendment (No. 4191) was agreed to, as follows:

(Purpose: To require the Director of the Office of Management and Budget to issue guidelines identifying opportunities for achieving and accurately measuring fair participation of small business concerns in micro-purchases)

On page 3, between lines 3 and 4, insert the following:

(6) Analysis of purchase card expenditures to identify opportunities for achieving and accurately measuring fair participation of small business concerns in micro-purchases consistent with the national policy on small business participation in Federal procurements set forth in sections 2(a) and 15(g) of the Small Business Act (15 U.S.C. 631(a) and 644(g)), and dissemination of best practices for participation of small business concerns in micro-purchases.

The bill (S. 457), as amended, was ordered to be engrossed for a third reading, read the third time and passed, as follows:

S. 457

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 “Purchase Card Waste Elimination Act of 2006”.

SEC. 2. REQUIREMENT FOR GUIDANCE.

(a) **OFFICE OF MANAGEMENT AND BUDGET POLICY GUIDANCE.**—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue guidelines to assist the heads of executive agencies in improving the management of the use of the Governmentwide commercial purchase card for making micropurchases. The Director shall include guidelines on the following matters:

- (1) Analysis of purchase card expenditures to identify opportunities for achieving savings through micropurchases made in economical volumes.
- (2) Negotiation of discount agreements with major vendors accepting the purchase card.

(3) Establishment of communication programs to ensure that purchase card holders receive information pertaining to the availability of discounts, including programs for the training of purchase card holders on the availability of discounts.

(4) Assessment of cardholder purchasing practices, including use of discount agreements.

(5) Collection and dissemination of best practices and successful strategies for achieving savings in micropurchases.

(6) Analysis of purchase card expenditures to identify opportunities for achieving and accurately measuring fair participation of small business concerns in micro-purchases consistent with the national policy on small business participation in Federal procurements set forth in sections 2(a) and 15(g) of the Small Business Act (15 U.S.C. 631(a) and 644(g)), and dissemination of best practices for participation of small business concerns in micro-purchases.

(b) **GENERAL SERVICES ADMINISTRATION.**—The Administrator of General Services shall—

(1) continue efforts to improve reporting by financial institutions that issue the Governmentwide commercial purchase card so that the General Services Administration has the data needed to identify opportunities for achieving savings; and

(2) actively pursue point-of-sale discounts with major vendors accepting the purchase card so that any Federal Government purchaser using the purchase card can benefit from such point-of-sale discounts.

(c) **AGENCY REPORTING REQUIREMENT.**—The senior procurement executive for each executive agency shall, as directed by the Director of the Office of Management and Budget, submit to the Director periodic reports on the actions taken in such executive agency pursuant to the guidelines issued under subsection (a).

(d) **CONGRESSIONAL OVERSIGHT.**—Not later than December 31 of the year following the year in which this Act is enacted, and December 31 of each of the ensuing three years, the Director of the Office of Management and Budget shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report summarizing the progress made during the fiscal year ending in the year in which such report is due—

(1) in improving the management of the use of the Governmentwide commercial purchase card for making micropurchases; and

(2) in achieving savings in micropurchases made with such card, expressed in terms of average savings achieved by each executive agency in the use of discount agreements identified in subsection (a) and the total savings achieved Governmentwide.

(e) **DEFINITIONS.**—In this section:

(1) The term “executive agency” has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) The term “micropurchase” means a purchase in an amount not in excess of the micropurchase threshold, as defined in section 32 of such Act (41 U.S.C. 428).

SEC. 3. PAYMENTS TO FEDERAL CONTRACTORS WITH FEDERAL TAX DEBT.

The General Services Administration, in conjunction with the Internal Revenue Service and the Financial Management Service, shall develop procedures to subject purchase card payments to Federal contractors to the Federal Payment Levy program.

SEC. 4. REPORTING OF AIR TRAVEL BY FEDERAL GOVERNMENT EMPLOYEES.

(a) **ANNUAL REPORTS REQUIRED.**—The Administrator of the General Services shall

submit annually to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on all first class and business class travel by employees of each executive agency undertaken at the expense of the Federal Government.

(b) **CONTENT.**—The reports submitted pursuant to subsection (a) shall include, at a minimum, with respect to each travel by first class or business class—

- (1) the names of each traveler;
- (2) the date of travel;
- (3) the points of origination and destination;
- (4) the cost of the first class or business class travel; and
- (5) the cost difference between such travel and travel by coach class.

(c) **EXECUTIVE AGENCY DEFINED.**—In this section, the term “executive agency” has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

APPOINTMENT OF COMMITTEE TO ESCORT HER EXCELLENCY, DR. VAIRA VIKE-FREIBERGA, PRESIDENT OF THE REPUBLIC OF LATVIA

Mr. McCONNELL. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort Her Excellency Dr. Vaira Vike-Freiberga, President of the Republic of Latvia, to the House Chamber for a joint meeting on Wednesday, June 7, 2006.

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

ORDERS FOR WEDNESDAY, JUNE 7, 2006

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Wednesday, June 7; I further ask 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 resume consideration of the motion to proceed to S.J. Res. 1 and the time until 9:40 be equally divided between the two leaders or their designees; provided further that the time from 9:40 to 9:50 be allocated to the Democratic leader or his designee, and the final 10 minutes be allocated to the majority leader or his designee; further, that the vote on the motion to invoke cloture on the motion to proceed occur at 10 o'clock in the morning. I further ask that following the vote, the Senate stand in recess until 12 noon to accommodate the joint meeting I was referring to earlier.

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

Mr. McCONNELL. I further ask consent that the time from noon until 3 o'clock be allocated for debate on the motion to proceed to H.R. 8, the death

tax relief bill, with the time divided as follows: 12 to 12:30, majority control; 12:30 to 1, minority control; alternating between the two sides every 30 minutes until 3 o'clock. I further ask consent that the time from 3 until 6 tomorrow afternoon be allocated for debate on the motion to proceed to S. 147, the Native Hawaiians bill, with the time divided as follows: 3 to 3:30, majority control; 3:30 to 4, minority control; alternating between the two sides every 30 minutes until 6 p.m.

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

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow morning at 10:00, we will have a cloture vote on the motion to proceed to the Marriage Protection Amendment. We have had a good debate during the last few days on that matter. It is my hope that cloture will be invoked in order to address this important issue.

As a reminder to Members, as I indicated, we have a joint meeting in the House at 11 o'clock to hear an address by the President of the Republic of Latvia. We will gather at 10:40 in the Chamber and proceed as a body to the House. After that is completed, we will debate the motions to proceed to the

death tax relief bill and the Native Hawaiian bill.

Moments ago, I filed cloture on both those motions, the death tax and Native Hawaiians. Those votes will be occurring sometime on Thursday.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:06 p.m., adjourned until Wednesday, June 7, 2006, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 6, 2006:

DEPARTMENT OF STATE

CESAR BENITO CABRERA, OF PUERTO RICO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MAURITIUS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SEYCHELLES.

FEDERAL LABOR RELATIONS AUTHORITY

WAYNE CARTWRIGHT BEYER, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS EXPIRING JULY 1, 2010, VICE OTHONIEL ARMENDARIZ.

DEPARTMENT OF DEFENSE

COLLEEN CONWAY-WELCH, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNI-

FORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 2011, VICE L. D. BRITT, TERM EXPIRED.

C. THOMAS YARINGTON, JR., OF WASHINGTON, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 2011, VICE IKRAM U. KHAN, TERM EXPIRED.

THE JUDICIARY

MARCIA MORALES HOWARD, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA, VICE HARVEY E. SCHLESINGER, RETIRED.

LESLIE SOUTHWICK, OF MISSISSIPPI, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, VICE WILLIAM H. BARBOUR, JR., RETIRED.

NATIONAL TRANSPORTATION SAFETY BOARD

ROBERT L. SUMWALT III, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 2006, VICE RICHARD F. HEALING, RESIGNED.

ROBERT L. SUMWALT III, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2011. (REAPPOINTMENT)

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES N. MATTIS, 0000

CONFIRMATION

Executive nomination confirmed by the Senate Tuesday, June 6, 2006:

THE JUDICIARY

RENEE MARIE BUMB, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.