

107TH CONGRESS
2D SESSION

S. 2690

To reaffirm the reference to one Nation under God in the Pledge of Allegiance.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2002

Mr. HUTCHINSON (for himself, Mr. SESSIONS, Mr. LOTT, Ms. COLLINS, Mr. BURNS, Mrs. HUTCHISON, Mr. HELMS, Mr. INHOFE, Mr. CAMPBELL, Mr. ROBERTS, Mr. DEWINE, Mr. SHELBY, Mr. ALLEN, Mr. ENSIGN, Mr. SMITH of New Hampshire, Mr. BENNETT, Mr. STEVENS, Mr. VOINOVICH, Mr. GRAMM, Mr. MCCONNELL, Mr. BROWNBACK, Mr. NICKLES, Mr. BUNNING, Mr. ENZI, Mr. HAGEL, Mr. LUGAR, Mr. BOND, Mr. MURKOWSKI, Mr. CRAIG, Mr. THOMAS, Mr. CRAPO, Mr. DOMENICI, Mr. KYL, Mr. MILLER, Mr. ALLARD, and Mr. WARNER) introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To reaffirm the reference to one Nation under God in the Pledge of Allegiance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds the following:

5 (1) On November 11, 1620, prior to embarking
6 for the shores of America, the Pilgrims signed the

1 Mayflower Compact that declared: “Having under-
2 taken, for the Glory of God and the advancement of
3 the Christian Faith and honor of our King and
4 country, a voyage to plant the first colony in the
5 northern parts of Virginia,”.

6 (2) On July 4, 1776, America’s Founding Fa-
7 thers, after appealing to the “Laws of Nature, and
8 of Nature’s God” to justify their separation from
9 Great Britain, then declared: “We hold these Truths
10 to be self-evident, that all Men are created equal,
11 that they are endowed by their Creator with certain
12 unalienable Rights, that among these are Life, Lib-
13 erty, and the Pursuit of Happiness”.

14 (3) In 1781, Thomas Jefferson, the author of
15 the Declaration of Independence and later the Na-
16 tion’s third President, in his work titled “Notes on
17 the State of Virginia” wrote: “God who gave us life
18 gave us liberty. And can the liberties of a nation be
19 thought secure when we have removed their only
20 firm basis, a conviction in the minds of the people
21 that these liberties are of the Gift of God. That they
22 are not to be violated but with His wrath? Indeed,
23 I tremble for my country when I reflect that God is
24 just; that his justice cannot sleep forever.”.

1 (4) On May 14, 1787, George Washington, as
2 President of the Constitutional Convention, rose to
3 admonish and exhort the delegates and declared: “If
4 to please the people we offer what we ourselves dis-
5 approve, how can we afterward defend our work?
6 Let us raise a standard to which the wise and the
7 honest can repair; the event is in the hand of God!”.

8 (5) On July 21, 1789, on the same day that it
9 approved the Establishment Clause concerning reli-
10 gion, the First Congress of the United States also
11 passed the Northwest Ordinance, providing for a ter-
12 ritorial government for lands northwest of the Ohio
13 River, which declared: “Religion, morality, and
14 knowledge, being necessary to good government and
15 the happiness of mankind, schools and the means of
16 education shall forever be encouraged.”.

17 (6) On September 25, 1789, the First Congress
18 unanimously approved a resolution calling on Presi-
19 dent George Washington to proclaim a National Day
20 of Thanksgiving for the people of the United States
21 by declaring, “a day of public thanksgiving and
22 prayer, to be observed by acknowledging, with grate-
23 ful hearts, the many signal favors of Almighty God,
24 especially by affording them an opportunity peace-

1 ably to establish a constitution of government for
2 their safety and happiness.”.

3 (7) On November 19, 1863, President Abraham
4 Lincoln delivered his Gettysburg Address on the site
5 of the battle and declared: “It is rather for us to be
6 here dedicated to the great task remaining before
7 us—that from these honored dead we take increased
8 devotion to that cause for which they gave the last
9 full measure of devotion—that we here highly re-
10 solve that these dead shall not have died in vain—
11 that this Nation, under God, shall have a new birth
12 of freedom—and that Government of the people, by
13 the people, for the people, shall not perish from the
14 earth.”.

15 (8) On April 28, 1952, in the decision of the
16 Supreme Court of the United States in *Zorach v.*
17 *Clauson*, 343 U.S. 306 (1952), in which school chil-
18 dren were allowed to be excused from public schools
19 for religious observances and education, Justice Wil-
20 liam O. Douglas, in writing for the Court stated:
21 “The First Amendment, however, does not say that
22 in every and all respects there shall be a separation
23 of Church and State. Rather, it studiously defines
24 the manner, the specific ways, in which there shall
25 be no concern or union or dependency one on the

1 other. That is the common sense of the matter. Oth-
2 erwise the State and religion would be aliens to each
3 other—hostile, suspicious, and even unfriendly.
4 Churches could not be required to pay even property
5 taxes. Municipalities would not be permitted to
6 render police or fire protection to religious groups.
7 Policemen who helped parishioners into their places
8 of worship would violate the Constitution. Prayers in
9 our legislative halls; the appeals to the Almighty in
10 the messages of the Chief Executive; the proclama-
11 tions making Thanksgiving Day a holiday; ‘so help
12 me God’ in our courtroom oaths—these and all
13 other references to the Almighty that run through
14 our laws, our public rituals, our ceremonies would be
15 flouting the First Amendment. A fastidious atheist
16 or agnostic could even object to the supplication with
17 which the Court opens each session: ‘God save the
18 United States and this Honorable Court.’”.

19 (9) On June 15, 1954, Congress passed and
20 President Eisenhower signed into law a statute that
21 was clearly consistent with the text and intent of the
22 Constitution of the united States, that amended the
23 Pledge of Allegiance to read: “I pledge allegiance to
24 the Flag of the United States of America and to the

1 Republic for which it stands, one Nation under God,
2 indivisible, with liberty and justice for all.”;

3 (10) On July 20, 1956, Congress proclaimed
4 that the national motto of the United States is “In
5 God We Trust”, and that motto is inscribed above
6 the main door of the Senate, behind the Chair of the
7 Speaker of the House of Representatives, and on the
8 currency of the United States.

9 (11) On June 17, 1963, in the decision of the
10 Supreme Court of the United States in *Abington*
11 *School District v. Schempp*, 374 U.S. 203 (1963), in
12 which compulsory school prayer was held unconstitu-
13 tional, Justices Goldberg and Harlan, concurring in
14 the decision, stated: “But untutored devotion to the
15 concept of neutrality can lead to invocation or ap-
16 proval of results which partake not simply of that
17 noninterference and noninvolvement with the reli-
18 gious which the Constitution commands, but of a
19 brooding and pervasive devotion to the secular and
20 a passive, or even active, hostility to the religious.
21 Such results are not only not compelled by the Con-
22 stitution, but, it seems to me, are prohibited by it.
23 Neither government nor this Court can or should ig-
24 nore the significance of the fact that a vast portion
25 of our people believe in and worship God and that

1 many of our legal, political, and personal values de-
2 rive historically from religious teachings. Govern-
3 ment must inevitably take cognizance of the exist-
4 ence of religion and, indeed, under certain cir-
5 cumstances the First Amendment may require that
6 it do so.”.

7 (12) On March 5, 1984, in the decision of the
8 Supreme Court of the United States in *Lynch v.*
9 *Donnelly*, 465 U.S. 668 (1984), in which a city gov-
10 ernment’s display of a nativity scene was held to be
11 constitutional, Chief Justice Burger, writing for the
12 Court, stated: “There is an unbroken history of offi-
13 cial acknowledgment by all three branches of govern-
14 ment of the role of religion in American life from at
15 least 1789 . . . [E]xamples of reference to our reli-
16 gious heritage are found in the statutorily prescribed
17 national motto ‘In God We Trust’ (36 U.S.C. 186),
18 which Congress and the President mandated for our
19 currency, see (31 U.S.C. 5112(d)(1) (1982 ed.)),
20 and in the language ‘One Nation under God’, as
21 part of the Pledge of Allegiance to the American
22 flag. That pledge is recited by many thousands of
23 public school children—and adults—every year . . .
24 Art galleries supported by public revenues display
25 religious paintings of the 15th and 16th centuries,

1 predominantly inspired by one religious faith. The
2 National Gallery in Washington, maintained with
3 Government support, for example, has long exhibited
4 masterpieces with religious messages, notably the
5 Last Supper, and paintings depicting the Birth of
6 Christ, the Crucifixion, and the Resurrection, among
7 many others with explicit Christian themes and mes-
8 sages. The very chamber in which oral arguments on
9 this case were heard is decorated with a notable and
10 permanent—not seasonal—symbol of religion: Moses
11 with the Ten Commandments. Congress has long
12 provided chapels in the Capitol for religious worship
13 and meditation.”.

14 (13) On June 4, 1985, in the decision of the
15 Supreme Court of the United States in *Wallace v.*
16 *Jaffree*, 472 U.S. 38 (1985), in which a mandatory
17 moment of silence to be used for meditation or vol-
18 untary prayer was held unconstitutional, Justice
19 O’Connor, concurring in the judgment and address-
20 ing the contention that the Court’s holding would
21 render the Pledge of Allegiance unconstitutional be-
22 cause Congress amended it in 1954 to add the words
23 “under God,” stated “In my view, the words ‘under
24 God’ in the Pledge, as codified at (36 U.S.C. 172),
25 serve as an acknowledgment of religion with ‘the le-

1 gitimate secular purposes of solemnizing public occa-
2 sions, [and] expressing confidence in the future.’”.

3 (14) On November 20, 1992, the United States
4 Court of Appeals for the 7th Circuit, in *Sherman v.*
5 *Community Consolidated School District 21*, 980
6 F.2d 437 (7th Cir. 1992), held that a school dis-
7 trict’s policy for voluntary recitation of the Pledge of
8 Allegiance including the words “under God” was
9 constitutional.

10 (15) The 9th Circuit Court of Appeals erro-
11 neously held, in *Newdow v. U.S. Congress*, (9th Cir.
12 June 26, 2002) that the Pledge of Allegiance’s use
13 of the express religious reference “under God” vio-
14 lates the First Amendment to the Constitution, and
15 that, therefore, a school district’s policy and practice
16 of teacher-led voluntary recitations of the Pledge of
17 Allegiance is unconstitutional.

18 (16) The erroneous rationale of the 9th Circuit
19 Court of Appeals in *Newdow* would lead to the ab-
20 surd result that the Constitution’s use of the express
21 religious reference “Year of our Lord” in Article VII
22 violates the First Amendment to the Constitution,
23 and that, therefore, a school district’s policy and
24 practice of teacher-led voluntary recitations of the
25 Constitution itself would be unconstitutional.

1 **SEC. 2. ONE NATION UNDER GOD.**

2 (a) REAFFIRMATION.—Section 4 of title 4, United
3 States Code, is amended to read as follows:

4 **“§ 4. Pledge of allegiance to the flag; manner of deliv-**
5 **ery**

6 “The Pledge of Allegiance to the Flag: ‘I pledge alle-
7 giance to the Flag of the United States of America, and
8 to the Republic for which it stands, one Nation under God,
9 indivisible, with liberty and justice for all.’, should be ren-
10 dered by standing at attention facing the flag with the
11 right hand over the heart. When not in uniform men
12 should remove their headdress with their right hand and
13 hold it at the left shoulder, the hand being over the heart.
14 Persons in uniform should remain silent, face the flag, and
15 render the military salute.”.

16 (b) CODIFICATION.—In codifying this subsection, the
17 Office of the Law Revision Council shall make no change
18 in section 4, title 4, United States Code, but shall show
19 in the historical and statutory notes that the 107th Con-
20 gress reaffirmed the exact language that has appeared in
21 the Pledge for decades.

22 **SEC. 3. REAFFIRMING THAT GOD REMAINS IN OUR MOTTO.**

23 (a) REAFFIRMATION.—Section 302 of title 36,
24 United States Code, is amended to read as follows:

25 **“§ 302. National motto**

26 “‘In God we trust’ is the national motto.”.

1 (b) CODIFICATION.—In codifying this subsection, the
2 Office of the Law Revision Council shall make no change
3 in section 302, title 36, United States Code, but shall show
4 in the historical and statutory notes that the 107th Con-
5 gress reaffirmed the exact language that has appeared in
6 the Motto for decades.

○