

This data bank is not working. According to the federal Department of Health and Human Services, nearly 54 percent of all hospitals have never reported a disciplinary action to the data bank.

Federal law requires that hospitals and medical boards be penalized if they don't report to the data bank. But no fine or penalty has ever been levied.

Further, hospitals sometimes agree not to report doctors they are forcing from their staffs to smooth their departure. Also, physicians' names are removed from malpractice settlements to keep them out of the data bank.

The failings of the data bank create problems like the one faced by Gwyneth Vives. Three hours after giving birth to a healthy boy in 2001, Vives, a scientist at Los Alamos National Laboratory in New Mexico, suffered a complication and bled to death.

The OB/GYN who tended to Ms. Vives had a troubled history. She had previously been forced to leave a job at Duke University Medical Center in North Carolina when questions arose about her surgical skills and her complication rate.

According to the New Mexico Medical Board, she lied to get her New Mexico license, saying she had never lost hospital privileges.

After Ms. Vives died, the OB/GYN went to Michigan and got a license.

We must improve the national practitioner database system so the few doctors who are causing medical injuries cannot simply move to another State.

Contrary to popular belief about frivolous lawsuits, 95 percent of people who are injured by a doctor do not sue.

Studies have shown that the most significant reason people sue is because they feel their doctor or hospital did not acknowledge the problem, or apologize. In other words, they are angry.

Based on this data, a program called "Sorry Works" has been launched. Under the program, doctors and hospital staff conduct analyses after every patient injury, and if a medical error caused the problem, the doctors and hospital staff apologize, provide solutions to fix the problem, and offer up-front compensation to the patient, family, and their attorney.

This approach helps alleviate anger and actually reduces the chances of litigation and costly defense litigation bills. The program has worked successfully at hospitals such as the University of Michigan Hospital system, Stanford Medical Center, Children's Hospitals and Clinics of Minnesota, and the VA Hospital in Lexington, Kentucky.

I am proud to say that Illinois is the first State to enact a Sorry Works pilot program statewide.

My colleague from Illinois, BARACK OBAMA, has introduced a bill in the U.S. Senate to facilitate federal funding for apology programs.

The insurance industry has a blanket exemption from Federal antitrust laws. Using their exemption, insurers can

collude to set rates, resulting in higher premiums than true competition would achieve—and because of this exemption, enforcement officials cannot investigate any such collusion.

There was an article in the Washington Post last Friday about Hank Greenberg, the former chairman of one of the largest malpractice insurers in the country, American Continental Group.

Mr. Greenberg has been sued by New York Attorney General Eliot Spitzer for fraudulent transactions aimed at manipulating the insurer's financial statements and deceiving regulators and investors.

If Congress is serious about controlling rising medical malpractice premiums, we must revoke this blanket exemption created in the McCarran-Ferguson act.

I am a cosponsor of a bill introduced by Senator LEAHY called the Medical Malpractice Insurance Antitrust Act. Our bill modifies the McCarran-Ferguson Act for the most pernicious antitrust offenses: price fixing, bid rigging, and market allocations.

Who could object to a prohibition on insurance carriers' fixing prices or dividing territories for anticompetitive purposes. After all, the rest of our Nation's industries manage either to abide by these laws or pay the consequences.

We need to stop insurers from gouging doctors and hospitals and this bill is a step in the right direction.

#### LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On March 7, 2006, in New York, NY, Victor Lopez and David Andrade were sentenced separately to 8 years in prison for their involvement in a series of beatings that targeted gay men. Lopez and Andrade would pick up gay men, then beat and rob them. According to police, these attacks were motivated by the victims sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### HONORING OUR ARMED FORCES

STAFF SERGEANT JOSEPH E. PROCTOR

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep

sense of gratitude to honor the life of a brave man from Indianapolis. Joseph E. Proctor, 38 years old, was killed on May 2 in a suicide bombing near his observation post in Iraq. Leaving his life and family behind him, Joseph risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

After September 11, many Americans, including Joseph, felt a deep calling to help their country in its time of need. In the wake of the attacks, despite his family's concerns over his safety, Joseph signed up for the Indiana National Guard, where he had served 20 years ago as a young man. After his Guard service in the mid-1980s, he went into the Army on active duty and served in Desert Storm. Joseph re-enlisted in the Guard in 2002, and began work as a refueler in Iraq. His brother Eddie told a local news outlet that Joseph had seen his military service as a way to help out fellow soldiers. He recounted Joseph's selflessness, saying that one of the reasons Joseph went to Iraq was to give other soldiers a break to come home and see their families. At the time of his death, he was supposed to return home in just 2 weeks.

Joseph was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 638th Aviation Support Battalion in Noblesville. This brave soldier leaves behind his wife, Beth, and three children, Joe, 20, Cassandra, 17, and Adam, 11, years old.

Today, I join Joseph's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Joseph, a memory that will burn brightly during these continuing days of conflict and grief.

Joseph was known for his dedication to his family and his love of country. Today and always, Joseph will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Joseph's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Joseph's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Joseph Proctor in the official record

of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Joseph's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Joseph.

HONORING CORPORAL ERIC LUEKEN

Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young Marine from Southern Indiana. Eric Lueken, 23 years old, died on April 22 in combat operations in the Anbar province of Iraq. With his entire life before him, Eric risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A 2001 graduate of Northeast Dubois High School, Eric joined the Marine Corps in October 2003 to challenge himself and see the world. He previously served in Afghanistan for 8 months, before heading out to Iraq in March. He was a decorated war hero, who was awarded with a Purple Heart, two Combat Action Ribbons, a National Defense Service Medal, a Sea Service Deployment Ribbon, Iraq and Afghanistan Service Medals and the Global War on Terror Service Medal. A Marine who took his work seriously, Eric had planned to marry his girlfriend Ericka Merkel upon his return from Iraq. She told a local paper, "He always put other people before him." I stand here today to express my gratitude for Eric's sacrifice and that of his family and loved ones.

Eric was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 3rd Battalion, 3rd Marine Regiment, 3rd Marine Division, III Marine Expeditionary Force based at Kaneohe Bay, Hawaii. This brave young soldier leaves behind his parents Glenn "Jake" and Melinda Lueken, and his brother Brent.

Today, I join Eric's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Eric, a memory that will burn brightly during these continuing days of conflict and grief.

Eric was known for his dedication to his family and his love of country. Today and always, Eric will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Eric's sacrifice, I am re-

mindful of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Eric's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Eric Lueken in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Eric's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Eric.

HONORING STAFF SERGEANT ERIC A. MCINTOSH

Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Indianapolis. Eric McIntosh, 29 years old, was one of three Marines killed on April 2 during combat operations in the Anbar province of Iraq. With his entire life before him, Eric risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A former Roncalli High School student, Eric had been in the Marines for 10 years and was on his second tour in Iraq when he was killed. Although he graduated high school unsure of what he wanted to do with his life, he found purpose during his time as a Marine. After completing his second tour, he hoped to become a recruiter for the military. Despite having battled asthma as a child, Eric was an avid athlete and an enthusiastic surfer. His brother Richard, who served in the Army during the Gulf War, recalled his pride in Eric and Eric's passion for his job. "He loved the Marines. He loved his job," said Richard. "He was a way better soldier than I was."

Eric was killed while serving his country in Operation Iraqi Freedom. He was a member of the 3rd Battalion, 8th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force. This brave young soldier leaves behind his mother Betty, his brother Richard, his sister Lisa Schoenly; and his wife Cynthia.

Today, I join Eric's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his

courage and strength of character that people will remember when they think of Eric, a memory that will burn brightly during these continuing days of conflict and grief.

Eric was known for his dedication to his family and his love of country. Today and always, Eric will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Eric's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Eric's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Eric McIntosh in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Eric's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Eric.

#### COSPONSORSHIP OF S. 722

Mr. BURNS. Mr. President, I rise today to express my support for legislation introduced in the Senate which has a significant impact on more than 800 small businesses in Montana and hundreds of thousands more around the country. S. 722 would reduce the tax burden on every barrel of beer, which currently stands at \$18. Prior to 1991, this tax was only half of the cost today.

This tax was originally enacted as a means to pay for the U.S. Civil War. The lesson is that there is no such thing as a short-term tax. The tax on beer, which accounts for 44 percent of a bottle of beer and a whopping 80 percent cost of a six-pack, has been steadily increasing since 1991.

The taxation of beer falls unfairly on Montanans who can least afford to pay it. A report by Citizens for Tax Justice indicates that people whose family's income is in the top 20 percent pay five times less in excise beer tax than those whose family is in the bottom 20 percent.