

we come with a \$35 billion request fully paid for to address the issue of children who do not get health care, children who, when they get sick, do not have adequate health care—what is more important for this country?

I don't understand. I have said from time to time, we have all these events in the Olympics for running and jumping. If ever there were an event for sidestepping, I have some gold medal candidates in this Chamber. Sidestepping the important issue—they don't want to talk about the question of why do you not want to address the health care of children. They want to talk about other issues—socialized medicine. It is a foreign language to me, but maybe not to some.

I guess I would ask this question: Can we—not just on this subject but other subjects as well—can we come to the floor of the Senate and take some pride in taking care of business at home? My colleague from Oregon and I offered the only amendment that cut down a bit the \$20 billion—yes, with a “B”—\$20 billion this Congress passed for reconstruction in Iraq. A massive amount of it was wasted. Talking about health care, guess what. We gave a \$243 million contract to a private contractor to rehabilitate 142 health care clinics in Iraq. An Iraqi doctor went to the Health Minister of Iraq and said: I would like to see the health clinics that were rehabilitated. The money is all gone. The Iraqi Health Minister said: In many cases, those are imaginary health clinics. The money is gone. Reconstruction in Iraq—how about taking care of things at home? How about doing first things first? And you tell me what is in second place. The first place, in my judgment, is taking care of America's kids, and we don't do this through some massive Government program, through some socialized health care system, some Cuban-style system of Government programs. We do this in a thoughtful way, and we do it in a way that works.

How do we know it works? Because this program has existed and been an exemplary program, and it has given low-income families an opportunity to believe that when their kids get sick and they don't have money and are having a tough time, they can still take their kids to a doctor. God bless them for knowing that and God bless the Congress and the President for doing something about it in past years.

It is very different now. We are trying to expand the program to millions of additional kids, and we are told somehow this is a program that is unworthy, it cannot be done this way, it is some sort of big bureaucratic mess. Nothing could be further from the truth—nothing.

I hope when the dust settles this week and we do the conference report, I hope we understand that this conference report is bipartisan—Senator GRASSLEY, Senator BAUCUS, Senator HATCH, Senator KENNEDY, and so many others have advanced this legislation

on the floor, Republicans and Democrats. Let's pass this legislation, and let's hope the small amount of opposition in this Chamber will not deter us from doing what we know is best for the country. And, second, let's expect this President to sign it. I know he has threatened to veto the bill. Let's expect him to sign it because it is taking care of business at home and doing first things first.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

#### HATE CRIMES

Mr. SMITH. Mr. President, I believe the pending amendment is the hate crimes amendment to the national Defense authorization bill. I rise today to once again discuss the need to enact hate crimes legislation. For the fifth consecutive Congress, I have introduced this legislation with my colleague from Massachusetts, Senator KENNEDY.

The Senate knows well the substance of what we have debated. We have done it in every Congress of my tenure. A majority of Senators have repeatedly supported this legislation. Two years ago, under a Republican-controlled Senate, we overwhelmingly passed hate crimes legislation on the National Defense Authorization Act by a vote of 65 to 33. In 2000, the Senate voted 57 to 42 in favor of the bill. In 2002, we had 54 votes.

Hate crimes legislation, in my view, is the most important civil rights issue before this Congress. The House has already passed this legislation. They have done so and we will do so, I hope, because America needs it.

America is one of the most diverse societies on the planet, and I can think of no other country in world history that has achieved the same degree of diversity as the United States of America. Our diversity is, in part, our Nation's heritage. It is part of our political and social fabric. It is a source of our strength, and it should be protected from those who try to systematically victimize whole classes of individuals based on their beliefs, their practices, or their race.

The bedrock of our civil rights laws is founded on our collective belief that minorities should be protected from discrimination. But the civil rights struggle is far from over. Every election brings a new chapter in our efforts to get it better.

As we fight the war on terrorism abroad, we must not forget that we continue to have injustices on our home shores. Americans continue to be harassed, victimized, and denied equal opportunities simply because of their race, religion, color, disabilities, or sexual orientation.

As a nation that serves as a beacon of freedom and liberty throughout the world, we simply cannot tolerate violence against our own citizens simply because of their differences. We cannot fight terror abroad and accept terror at home.

For the last 7 years, I have entered into the CONGRESSIONAL RECORD a hate crime almost every day. I have entered hundreds upon hundreds of individual hate crimes into the RECORD to demonstrate the need for this legislation. Many of these crimes are extremely brutal, some even resulting in the death of the victim. I do this to raise awareness. I do it to demonstrate the severity of these attacks and to show the frequency of these violent crimes. I also do it to remember these often nameless victims and to give a human face to these senseless acts of violence.

Let me tell my colleagues about the horror of these attacks. Opponents of this measure will say every crime should be treated equally. But those who perpetrate crimes out of bias, against sexual orientation, are unusually and especially savage. One rarely, if ever, reads about a hate crime resulting from a single bullet or errant punch. Hate crime victims will be beaten dozens of times with an iron crowbar, they will be stabbed over and over, or they will be stomped to death. These prolonged, vicious beatings are more akin to punishment and torture and manifest themselves in ways that are most evil.

This year, Senator KENNEDY and I have decided to rename our legislation the Matthew Shepard Act. We do so with the permission of his mother. We do so to put a human face on the issue of hate crimes legislation. In addition, we did it in remembrance of a young hate crime victim who has left an indelible mark upon our Nation's conscience. His name is Matthew Shepard.

Judy Shepard, Matthew's mother, is a dear friend of mine. Judy experienced a parent's single worst tragedy: the loss of her child. But instead of retreating into her own pain for solace, Judy has brought to national attention the need for hate crimes legislation. She is our Nation's strongest advocate for this issue.

For those of you who do not know Matthew Shepard's story, it is truly heartbreaking. Matthew was a 21-year-old college student at the University of Wyoming when he was attacked. Shortly after midnight on October 7, 1998, Matthew was kidnapped, beaten, pistol whipped, lashed to a lonely stretch of fence, and left to die alone.

Almost 18 hours later, Matthew was found alive but unconscious. His injuries were deemed too severe for surgery, and Matthew died on October 12. Matthew was murdered by two men simply for who he was, because he was gay. To think that such virulent hatred of another person's sexual orientation drove another to commit such a heinous act is truly unthinkable. Sadly, this case is not isolated.

One may ask why Senator KENNEDY and I have offered this legislation again on the Defense authorization bill. As I have said in the past, the military is not immune to the scourge of hate crimes in our country. In 1992, Navy seaman Allen Schindler was brutally murdered by his shipmate Terry Helvey in Okinawa, Japan. Schindler was beaten and stomped to death simply because he was gay. His attack was so vicious that almost every organ in his body was destroyed. His own mother could not have identified him but for the remains of a tattoo on his arm.

In another tragic case, PFC Barry Winchell was beaten by another army private with a baseball bat. He was beaten with such force and his injuries were so severe that he died shortly thereafter. He was only 21, the same age as Matthew Shepard.

To those who say we don't need a Federal hate crimes bill, I say they are wrong. This is a national problem that deserves national attention. Our hate crimes legislation would strengthen the ability of the Federal, State, and local governments to investigate and prosecute hate crimes based on race, ethnic background, religion, gender, sexual orientation, disability, and gender identity.

Furthermore, it would strengthen State and local efforts by enabling Justice to assist them in the investigation and prosecution of hate crimes and assist in funding of these prosecutions.

The legislation would also allow the Federal Government to step in, if needed, but only after the Department has certified that a Federal prosecution is necessary. If this can be done locally or at the State level, it should be, but hate crimes should be prosecuted.

Current law does not provide any authority for Federal involvement in these types of hate crimes, even when State or local law enforcement is inadequate because relevant law is nonexistent or resources are insufficient. Without this legislation, the tools for battling hate crimes at the Federal level will remain limited.

I have also heard it argued that we shouldn't punish a hate crime any differently than any other crime. I believe that is flat wrong. Hate crimes tear at the very fabric of our Nation. They seek to intimidate entire groups of Americans and, as such, divide our people. Hate crimes do more than harm one victim; they terrorize an entire society. They send an ominous message of hate and intolerance to all Americans. Those crimes must be punished proportionately.

As to the constitutionality of hate crimes statutes, which is questioned by some, it shouldn't be. The Supreme Court has already responded to their legitimacy. Motive has always been a factor in determining whether a crime has in fact occurred.

Mr. President, when you and I went to law school, took a class in crimes, one of the first things we learned you have to do to establish the commission

of a crime is intent and motive, and speech is one of those legitimate areas of inquiry. This was made very clear by Chief Justice William Rehnquist, not exactly a liberal, who wrote the majority opinion in *Wisconsin v. Mitchell*, where the Supreme Court unanimously upheld the constitutionality of a Wisconsin hate crimes statute. Statutes which provide for an enhanced sentence, where the defendant is intentionally selected because of his race, his religion, color, disability, sexual orientation, national origin or ancestry, does not violate the first amendment, the Court found.

Rehnquist wrote in *Mitchell*:

The first amendment does not prohibit the evidentiary use of speech to establish the elements of a crime or to prove motive or intent.

In fact, you can't have a crime unless you prove motive and intent, and speech is one of the legitimate areas of inquiry.

Lastly, I have heard concerns from my religious brothers and sisters who fear passage of hate crimes legislation will have a chilling effect on our Nation's churches and pulpits. This is unfounded. I find it disconcerting that many ministers of religion, for whom I have the utmost respect, would preach such messages from the radio, from television, and from sacred church pulpits. A hate crime does not criminalize thoughts, moral views, and religious beliefs. What it does say is we cannot go out and do violence to our fellow Americans simply because we find another's mere existence offends our beliefs. You have to act. Thought and speech are insufficient to prove a hate crime, and it is disingenuous and fallacious to say otherwise.

And I would say, as an aside, that if I believed what they charge, I would not be here in support of this amendment in Congress after Congress. I know the law, however, and I know what is being said about this amendment is simply wrong.

I accuse no one, but what I find of great comfort is a story from the New Testament on this issue, and I think it is applicable. It is a story from the Book of John, and I will share it with you, because I think it teaches us all how we should behave toward one another, sinners all, in the public square. It reads as follows, from Chapter 8:

And early in the morning he came again into the temple, and all the people came unto him; and he sat down, and taught them.

And the scribes and Pharisees brought unto him a woman taken in adultery; and when they had set her in the midst,

They say unto him, Master, this woman was taken in adultery, in the very act.

Now Moses in the law commanded us, that such should be stoned: but what sayest thou?

This they said, tempting him, that they might have to accuse him. But Jesus stooped down, and with his finger wrote on the ground, as though he heard them not.

So when they continued asking him, he lifted up himself, and said unto them, He that is without sin among you, let him first cast a stone at her.

And again he stooped down, and wrote on the ground.

And they which heard it, being convicted by their own conscience, went out one by one, beginning at the eldest, even unto the last: and Jesus was left alone, and the woman standing in the midst.

When Jesus had lifted up himself, and saw none but the woman, he said unto her, Woman, where are those thine accusers? hath no man condemned thee?

She said, No man, Lord. And Jesus said unto her, Neither do I condemn thee: go, and sin no more.

That occurred in the public square. Jesus risked his life to save her life. He didn't excuse it nor did he condemn her. He saved her life and risked his own. I don't believe Federal law should do any less than that, and I believe it is high time for us to do what many States, most of the States in America have done, and that is add the category of sexual orientation to our Federal statutes.

No churchman, no preacher, no adherent of religious faith need fear this, but they ought to follow that and understand that what we are not trying to do here is to somehow inhibit the free exercise of religion. We are trying to protect people, American people, from the most brutal kinds of terrorist acts on our own shores.

Finally, there is a memorial in Casper, WY, sculpted by Chris Navarro, dedicated to the memory of Matthew Shepard. It is named the Ring of Peace. The circular design of the ring symbolizes both the individual and the ideals of social unity. The bell, supported by a ring, stands for liberty, and the ring for the promise of tomorrow. White doves flying out of the bell are a symbol of peace. They are flying as a unified group and their wings symbolize hope and freedom.

At the base of the sculpture there is a simple poem that reads:

If you believe in hope, and the need for peace, step up and ring the bell, for it will sing, for a promise of tomorrow.

With that, Mr. President, I urge my colleagues, as many as have done so in the past, to vote in favor of this amendment. We cannot be complacent or tolerate such acts of hatred. We all need to step up and vote for legislation that promises all Americans a better tomorrow.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. KENNEDY. Mr. President, I hope our friends and colleagues had a good opportunity to listen to the excellent, extraordinary, compelling presentation my friend from Oregon has made on this issue. I have had the good opportunity to work with him for a good number of years. I always find that when he speaks on this issue, as he does on other issues of war and peace, he is able to get to the heart and the soul of these matters. Today, he has described the moral requirements presented to us on the issue of hate

crimes, and he has done that in a very thoughtful and sensitive way, besides explaining in a very detailed way not only the underlying legislation but the compelling reasons for it at this time. One can say that, on this legislation, now is the time, to repeat those wonderful words of Dr. King; that now is the time for action.

Senator SMITH has reminded us why this legislation is so important now on the Defense authorization bill. We cannot let another day, really hours, go by without this legislation. It reminds us of not only the moral compulsion but also why it is necessary to put this as an amendment onto the Defense authorization bill. As we are facing terrorism abroad, we also want to deal with terrorism here at home; and as we are looking at the values those serving abroad are fighting for against the terrorist elements abroad, it is important to reaffirm them and make them consistent with our best instincts. I commend the Senator for his presentation on this issue.

We are hopeful, Senator SMITH and I, we will have the chance to actually vote on this measure. As he has pointed out, this is not a new issue or question for this body. This is one of those issues we have had a chance to debate, debate, debate, and debate. The House of Representatives has taken a very clear and compelling stand. We have voted, the majority of the membership of this body, Democrat and Republican, in Republican Senates and Democratic Senates, to take action on this proposal. We don't need a great amount of time to deal with this issue, but it is appropriate that we lay out this case for it, and I welcome the chance to make some comments on it today. I am hopeful we will have the opportunity to proceed to it.

I was in the Senate when we passed the first hate crimes legislation in 1968, after the death of Dr. King.

We started off with strong legislation. It was cut back and cut back, so now we find that basically it is ineffective in dealing with hate crimes for a number of the reasons the Senator has outlined, because of the kinds of restrictions that have been placed on it. Again we are reminded of the need for this legislation. With the passage of this legislation, we will be, hopefully, a safer and more secure nation.

Legislation has real implications when it is effective. I believe this legislation is effective. I can remember years ago, when we had the series of church burnings in the southern part of our Nation, we passed here at that time—it was Lauch Faircloth and myself—additional responsibility for investigation and working with the prosecution by the Federal Bureau of Investigation in these circumstances and enhanced support for local law enforcement and State law enforcement in the prosecution of these church burnings. We saw a dramatic alteration and change in the pattern of church burnings.

My Governor now, Deval Patrick, was the head of the division in the Justice Department during this period of time, when I had a chance to meet him. We find when we take action, when we are serious, we are saying to the American people we are going to fight hate crimes and violence with both hands instead of one hand tied behind our backs, as we are doing now with the restrictions we have, using all our crime-fighting ability, we will be a more fair and safer land. That is what this legislation is about.

I am going to take a few minutes to remind the Senate about why this is a particular issue in the military. It is also outside the military, but I will just mention some of the incidents. The Senator from Oregon mentioned some, but I wish to take a few moments to elaborate on this question.

At a time when our ideals are under attack by terrorists in other lands, it is more important than ever to demonstrate that we practice what we preach, and that we are doing all we can to root out the bigotry and prejudice in our own country that leads to violence here at home.

Crimes motivated by hate because of the victim's race, religion, ethnic background, sexual orientation, disability, or gender are not confined to the geographical boundaries of our great Nation. The current conflicts in the Middle East and Northern Ireland, the ethnic cleansing campaigns in Bosnia and Rwanda, or the Holocaust itself demonstrate that violence motivated by hate is a world-wide danger, and we have a special responsibility to combat it here at home.

This amendment will strengthen the Defense Authorization Act by protecting those who volunteer to serve in the military. The vast majority of our soldiers serve with honor and distinction. These men and women put their lives on the line to ensure our freedom and for that, we are truly grateful.

Sadly, our military bases are not immune from the violence that comes from hatred—and even though members of the military put their lives on the line for us every day—they have not been immune from hate-motivated violence. Just last month, the FBI arrested members of the 82nd Airborne Division in Fayetteville, NC, and charged them with selling stolen military property to an agent they believed was a white supremacist. The pair allegedly sold drugs and bulletproof vests, and were also reportedly interested in selling an Army Humvee and weapons. Officials said the two men had been seen at a white supremacist rally. One of them had a page on the Web with photos of him posing with military weapons, statements about his Nazi heroes, and racist rants from his network of friends.

In December 2006, a Coast Guard procurement officer was given a bad conduct discharge and sentenced to a year in a military brig for posting Ku Klux Klan recruitment fliers on a white su-

premacist web site, illegally possessing weapons and explosive powder and grenade parts, lying to investigators, and other charges.

In December 1995, two paratroopers in a skinhead gang at Fort Bragg gunned down a black couple in a random, racially motivated double murder that shocked the Nation and led to a major investigation of extremism in the military. The killers were eventually sentenced to life in prison, and 19 other members of their division were dishonorably discharged for neo-Nazi gang activities.

As Senator SMITH points out, in 1992, Allen Schindler, a sailor in the Navy was viciously murdered by two fellow sailors because of his sexual orientation. Seven years later, PFC Barry Winchell, an infantry soldier in the Army, was brutally slain for being perceived as gay. These incidents prompted the military to implement guidelines to prevent this type of violence, but there is more that we can do. We have to send a message that these crimes won't be tolerated against any member of society.

These examples clearly demonstrate the relevance of this amendment to the military. We can't tolerate hate-motivated violence and must do all we can to protect our men and women in uniform.

A disturbing trend has also been discovered in the military. Last year, the Southern Poverty Law Center reported that members of hate groups have been entering into the military. As recruiters struggle to fulfill their quotas, they are being forced to accept recruits who may be extremists, putting our soldiers at higher risk of hate motivated violence. This can't be tolerated. We must stem the tide of hatred and bigotry by sending a loud and clear message that hate crimes will be punished to the fullest extent of the law.

Since the September 11 attacks, we have seen a shameful increase in the number of hate crimes committed against Muslims, Sikhs, and Americans of Middle Eastern descent. Congress has done much to respond to the vicious attacks of September 11. We have authorized the use of force against terrorists and those who harbor them in other lands. We have enacted legislation to provide aid to victims and their families, to strengthen airport security, to improve the security of our borders, to strengthen our defenses against bioterrorism, and to give law enforcement and intelligence officials enhanced powers to investigate and prevent terrorism.

Protecting the security of our homeland is a high priority, and there is more that we should do to strengthen our defenses against hate that comes from abroad. There is no reason why Congress should not act to strengthen our defenses against hate that occurs here at home.

Hate crimes are a form of domestic terrorism. They send the poisonous message that some Americans deserve

to be victimized solely because of who they are. Like other acts of terrorism, hate crimes have an impact far greater than the impact on the individual victims. They are crimes against entire communities, against the whole Nation, and against the fundamental ideals on which America was founded. They are a violation of all our country stands for.

Since the September 11 attacks, the Nation has been united in our effort to root out the cells of hatred around the world. We should not turn a blind eye to acts of hatred and terrorism here at home.

Attorney General Ashcroft put it well when he said:

Just as the United States will pursue, prosecute, and punish terrorists who attack America out of hatred for what we believe, we will pursue, prosecute and punish those who attack law-abiding Americans out of hatred for who they are. Hatred is the enemy of justice, regardless of its source.

Now more than ever, we need to act against hate crimes and send a strong message here and around the world that we will not tolerate crimes fueled by hate.

Hate is hate regardless of what nation it originates in. We can send a strong message about the need to eradicate hate crimes throughout the world by passing this hate crimes amendment to the Defense Department authorization bill. The hate crimes amendment we are offering today condemns the poisonous message that some human beings deserve to be victimized solely because of their race, religion, or sexual orientation and must not be ignored. This action is long overdue. When the Senate approves this amendment, we will send a message about freedom and equality that will resonate around the world.

According to FBI statistics, nearly 25 people are victimized each and every day because of their race, religion, sexual orientation, ethnic background, or disability. Some argue that hate crimes are actually decreasing because the total number of hate crimes in 2005 was slightly lower than in 2004. But the FBI data reflects only a fraction of hate crimes, because so many of these crimes routinely go unreported. The Southern Poverty Law Center estimates the total number of hate crimes per year is close to 50,000. Every hate crime is one too many. We need to strengthen the ability of Federal, State and local governments to prevent, investigate and prosecute these vicious and senseless crimes.

The existing Federal hate crime statute was passed in 1968, a few weeks after the assassination of Dr. Martin Luther King, Jr. It was an important step forward at the time, but it is now a generation out of date. The absence of effective legislation has undoubtedly resulted in the failure to solve many hate-motivated crimes. The recent action of the Justice Department in reopening forty civil-rights-era murders demonstrates the need for adequate

laws. Many of the victims in these cases have been denied justice for decades, and for some, justice will never come.

Our bill corrects two major deficiencies in current law. Excessive restrictions require proof that victims were attacked because they were engaged in certain "federally protected activities." And the scope of the law is limited, covering hate crimes based on race, religion, or ethnic background alone.

The federally protected activity requirement is outdated, unwise and unnecessary, particularly when we consider the unjust outcomes of this requirement. Hate crimes now occur in a variety of circumstances, and citizens are often targeted during routine activities that should be protected.

For example, in June 2003, six Latino teenagers went to a family restaurant on Long Island. They knew one another from their involvement in community activities and had come together to celebrate one of their birthdays. As they entered the restaurant, three men who were leaving the bar assaulted them, pummeling one boy and severing a tendon in his hand with a sharp weapon. During the attack, the men yelled racial slurs and one identified himself as a skinhead.

Two of the men were tried under the current Federal hate crimes law and were acquitted. The jurors said the Government failed to prove that the attack took place because the victims weren't engaged in a federally protected activity—using the restaurant did not qualify under current law. That case is only one example of the inadequate protection under the current status quo. Our bill will eliminate the federally protected activity requirement. Under this bill, the defendants who left the courtroom as free men would almost certainly have left in handcuffs through a different door.

The bill also recognizes that some hate crimes are committed against people because of their sexual orientation, their gender, their gender identity, or their disability. It is up to Congress to make sure that tough Federal penalties apply to those who commit these types of hate crimes as well. Passing this bill will send a loud and clear message. All hate crimes will face Federal prosecution. Action is long overdue. There are too many stories and too many victims.

In October 2002, two deaf girls in Somerville, MA, one of whom was in a wheelchair from cerebral palsy, were harassed and sexually assaulted by four suspected gang members in a local park. Although the alleged perpetrators were charged in the incident, the assaults could not be charged as hate crimes because there is no Federal protection for a hate crime against a disabled person.

In 1999, four women in Yosemite National Park were attacked by a man who admitted to having fantasized about killing women for most of his

life. The current law did not apply to this horrific crime, because enjoyment of a Federal park is not a Federally protected right.

Current law must also be strengthened to deter horrific mass shootings where women are singled out as victims because of their gender.

Crimes against individuals based on sexual orientation or gender identity also cause immense pain and suffering. In 1993, Brandon Teena was raped and beaten in Humboldt, NE, by two male friends. The local sheriff refused to arrest the offenders, and they later shot and stabbed Brandon to death.

In 2001, Fred C. Martinez, Jr., a Navajo, openly gay, transgender youth, was murdered while walking home from a party in Cortez, CO. The killer, Shaun Murphy, had traveled from New Mexico to Colorado with a friend in order to sell illegal drugs. He met Fred at a carnival that night, and the next morning, while driving, he saw Fred walking down the street. Shaun and his friend offered Fred a ride and dropped him off close to home. Shortly thereafter, Shaun attacked Fred and beat him to death with a large rock. His body was discovered several days later. The attackers bragged about this vicious crime, describing the victim with vulgar epithets.

The killer could not be charged with a hate crime, because no State or Federal law protecting gender identity existed. He received a 40 year sentence under a plea agreement, and will be eligible for parole in 25 years. His victim did not live long enough to see his 20th birthday.

These examples graphically illustrate the senseless brutality our fellow citizens face simply for being who they are. They also highlight the importance of passing this legislation.

The vast majority of us in Congress have recognized the need for this legislation since it was first introduced—nearly 10 years ago. With the support of 31 cosponsors, Senator SMITH and I urge your support of this bipartisan bill.

The House has come through on their side and passed the bill. Now it is time for the Senate to do the same. This year, we can get it done. We came close twice before. In 2000 and 2002, a majority of Senators voted to pass this legislation. In 2004, we had 65 votes for the bill and it was adopted as part of the Defense authorization bill. But—that time—it was stripped out in conference.

This year, we have an opportunity to pass it in both the Senate and the House, and enact it into law. We can't afford to lose this opportunity. We must do all we can to end these senseless crimes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. CASEY). The assistant majority leader is recognized.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### THE DREAM ACT

Mr. DURBIN. Mr. President, during the course of the deliberation on this Defense authorization bill, it has been my intention to offer an amendment to the so-called DREAM Act. The DREAM Act is a narrowly tailored, bipartisan measure that would give a select group of undocumented young people in America the chance to become legal residents if they came to this country as children, are currently long-term U.S. residents, have good moral character, no criminal record, and are willing to either enlist in the U.S. military or to attend college for at least 2 years.

The cosponsors of this amendment include Senators HAGEL, LUGAR, HATCH, BINGAMAN, BOXER, CANTWELL, CLINTON, FEINSTEIN, KERRY, LEAHY, LIEBERMAN, MENENDEZ, MURRAY, NELSON of Florida, and OBAMA. It is a bipartisan measure; it has been from the start. It says to a select group of immigrant students who grew up in our country: America is going to give you a chance. We will give you the opportunity to earn your way to legal status if you meet each and every one of the following requirements: You came to the United States before the age of 15; you have been continually present in the United States for at least 5 years; you are 29 years or younger when the DREAM Act becomes law, have good moral character, have not engaged in criminal activity or terrorist activity of any kind, not participated in alien smuggling; you have graduated from a U.S. high school; and you will serve in the military or attend college for at least 2 years.

This bill means a lot to me, but it means even more to a lot of young people across this country. Time and again I run into these young men and women. Some of them came to America as toddlers, as infants. They were brought into this country by their parents, certainly with no voice in the decision, and they grew up here. They attended our schools. Now they have reached a point in their lives where they want to go forward to make decisions about their careers. They are frustrated because they have no legal status.

I have run into specific cases time and again, and since I introduced this bill I have met so many of these students. It strikes me as interesting that we are at a point in American history that we say we do not have enough skilled workers, so we have to have H1-B visa holders come in from overseas; engineers, scientists, doctors, nurses who come in for 3-year periods of time

to supplement America's workforce because we do not have enough skilled people. And here we have a group of people who are graduates of high school, prepared to go to college or serve in our military, who, under our law as currently written, are being told: Leave. We do not need you. We do not want you.

If you meet these people, you will come to understand the potential they bring to America's future: the young Korean-American woman I met through my office, who is an accomplished pianist, plays classical piano in symphonies and has been accepted at the most prestigious music school in America to forward her career in music; a young Indian girl who is studying to be a dentist at a university in Illinois; a young Hispanic male who has just completed his graduate degree at an Illinois university in microbiology whose goal is to be a researcher for either a government agency or a pharmaceutical company, looking for cures for diseases.

Future nurses, future teachers, future doctors, scientists, and engineers, I have met them. They are the valedictorians of their high school classes, they are the role models for kids in their communities, they are people with an extraordinary wealth of talent looking for a chance to prove themselves.

Each and every one of them is without a country, without a country because they were brought to the United States as children by their parents with, as I mentioned earlier, no voice in that decision. And this is all they know. This is what they want. This is the country they identify with, the country they want to be part of.

That is why I introduced this bill some 5 years ago and have worked on it ever since. People ask: Why would you offer the DREAM Act as an amendment to the Defense authorization bill? Well, there are pretty compelling reasons for doing that. We are having trouble recruiting and retaining soldiers for our Army. We are accepting more applicants for the U.S. Army who are high school dropouts, applicants who have low scores on the military aptitude test, and even some with criminal backgrounds.

Under the DREAM Act, thousands of well-qualified potential recruits for the military would become eligible for the first time, and many are eager to serve in the Armed Forces, to stand up for the country they love and the country they want to be part of.

Under the DREAM Act, they have a strong incentive to enlist because it gives them a path to permanent legal status. Most people do not know that in the ranks of the military today we have about 40,000 men and women who are not citizens of the United States. They are legal residents, but they are not citizens.

I met some of them when I went to Iraq and went to a Marine Corps camp. One in particular sticks in my mem-

ory: a young man who, as I walked through the ranks of Illinois marines, handed me a brown envelope and said: Senator, can you help me become a citizen? I would really like to vote someday.

You do not easily forget that kind of a request from a young man who later that day would strap on his body armor, his helmet, take his weapon, and go out and fight alongside American citizens who were also members of the Marine Corps. The same is true in the Army; the same is true in many of our military services. We do not make it a condition of military service that you be a citizen, only that you currently be a legal resident.

Of course, we know, sadly, that if that soldier or another one like him was killed in combat, we would award them citizenship posthumously. Does that sound right? Does it sound right that someone who is willing to serve, defend our country, take an oath of loyalty to our Nation, risk his life, perhaps be injured, does it make sense for us to say to them: Well, you are good, good enough to serve in the military but not good enough to be an American citizen?

Now, think of those young people, many of whom would step forward today, raise their hand, and proudly serve in the military. Now, this bill, the DREAM Act, does not mandate military service. I would not do that. We have a volunteer military, and I want to keep it that way. A student who is otherwise eligible could earn legal status by attending college as well. That is consistent with the spirit of a volunteer military force, that we do not force young people to enlist as a condition of status.

But there is a strong incentive for military service. Those who analyze it say, you know what. These young people who would be eligible to serve in the military through the DREAM Act are exactly the kind of people we want. A 2004 survey by the Rand Corporation found that 45 percent of Hispanic males, 31 percent of Hispanic females between the ages of 16 and 21, were likely to serve in the Armed Forces. That is 45 percent of Hispanic males compared to 24 percent of White males; 31 percent of Hispanic females compared to 10 percent of White women.

It is important to note that immigrants have an outstanding tradition of service in the military. About 8,000 enlist each year, those with legal status but not in the DREAM Act category.

Last night, like many Americans, I watched a documentary prepared by Kenneth Burns called "The War," about World War II. There was an especially touching part of it about one of our colleagues, Senator DANNY INOUE of Hawaii, a man of Japanese ancestry, who enlisted in the Army from Hawaii when our Government decided to take a chance on these Japanese Americans and see if maybe they would stand up for America, even to fight our enemies, which included the nation of Japan.