

107TH CONGRESS  
2D SESSION

# S. 2690

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IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2002

Referred to the Committee on the Judiciary

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## AN ACT

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,*

1 **SECTION 1. FINDINGS.**

2 Congress finds the following:

3 (1) On November 11, 1620, prior to embarking  
4 for the shores of America, the Pilgrims signed the  
5 Mayflower Compact that declared: “Having under-  
6 taken, for the Glory of God and the advancement of  
7 the Christian Faith and honor of our King and  
8 country, a voyage to plant the first colony in the  
9 northern parts of Virginia,”.

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

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

1 I tremble for my country when I reflect that God is  
2 just; that his justice cannot sleep forever.”.

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

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

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

1 especially by affording them an opportunity peace-  
2 ably to establish a constitution of government for  
3 their safety and happiness.”.

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

16 (8) On April 28, 1952, in the decision of the  
17 Supreme Court of the United States in *Zorach v.*  
18 *Clauson*, 343 U.S. 306 (1952), in which school chil-  
19 dren were allowed to be excused from public schools  
20 for religious observances and education, Justice Wil-  
21 liam O. Douglas, in writing for the Court stated:  
22 “The First Amendment, however, does not say that  
23 in every and all respects there shall be a separation  
24 of Church and State. Rather, it studiously defines  
25 the manner, the specific ways, in which there shall

1 be no concern or union or dependency one on the  
2 other. That is the common sense of the matter. Oth-  
3 erwise the State and religion would be aliens to each  
4 other—hostile, suspicious, and even unfriendly.  
5 Churches could not be required to pay even property  
6 taxes. Municipalities would not be permitted to  
7 render police or fire protection to religious groups.  
8 Policemen who helped parishioners into their places  
9 of worship would violate the Constitution. Prayers in  
10 our legislative halls; the appeals to the Almighty in  
11 the messages of the Chief Executive; the proclama-  
12 tions making Thanksgiving Day a holiday; ‘so help  
13 me God’ in our courtroom oaths—these and all  
14 other references to the Almighty that run through  
15 our laws, our public rituals, our ceremonies would be  
16 flouting the First Amendment. A fastidious atheist  
17 or agnostic could even object to the supplication with  
18 which the Court opens each session: ‘God save the  
19 United States and this Honorable Court.’”.

20 (9) On June 15, 1954, Congress passed, and  
21 President Eisenhower signed into law a statute, that  
22 was clearly consistent with the text and intent of the  
23 Constitution of the United States, that amended the  
24 Pledge of Allegiance to read: “I pledge allegiance to  
25 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.

Passed the Senate June 27, 2002.

Attest:

JERI THOMSON,  
*Secretary.*