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Senate prepares to vote on protections for flag

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WASHINGTON — Culminating emotional debate on patriotism and individual rights in the age of terrorism, the Senate is preparing to vote as early as today on a constitutional amendment to ban the burning or desecration of the U.S. flag.

It could become the first change to the Constitution approved by Congress in 35 years.

Supporters and opponents said the final result would be a cliffhanger, likely coming within one vote either way of the 67 needed to achieve a two-thirds majority and send the amendment to the states. If the Senate joins the House in approving the amendment, ratification by three-fourths of the states (at least 38) appears likely, as many have already passed resolutions saying they would ratify it.

The Senate began debate Monday on a constitutional amendment to protect the American flag that has its best chance so far of moving through Congress toward ratification.

The amendment does not ban flag burning but says: "The Congress shall have the power to prohibit the physical desecration of the flag of the United States."

Some Democrats accuse the Republican majority in Congress of bringing up the flag amendment to arouse its conservative base and divert attention from the war in Iraq and other issues.

"Americans must be asking themselves why their representatives in Washington are spending time on this divisive issue rather than taking on the serious challenges they face every day such as gas prices, health care costs and a costly and enduring war," said Sen. Edward Kennedy, D-Mass., in a statement. "I believe this amendment is a purely symbolic act, designed to agitate and divide our nation."

But Sen. Orrin Hatch, R-Utah, argued that the amendment he authored has bipartisan support. Democratic backers include Sen. Harry Reid, D-Nev., the minority leader and top Senate Democrat. However, opponents include Sen. Mitch McConnell, R-Ky., his party's whip and the second-highest ranking member in the GOP Senate hierarchy.

With Republican and Democratic senators in support, the amendment has gotten more than 60 votes every time it has reached the Senate floor, Hatch noted. However, 67 are needed to pass.

The Supreme Court, in a 5-4 opinion, ruled in 1989 that flag desecration was a form of expression and thus protected by the Constitution's First Amendment guarantee of free speech. Before this ruling, 48 states had laws banning such an act.

Vermont Democrat Patrick Leahy, the ranking minority member of the Judiciary Committee, said flag burning is not a crisis, and the country faces "real challenges" at a time when the confidence of citizens in government is quite low.

Many veterans see "disrespect for the American flag as disrespect for them, as disrespect for the sacrifices they and their buddies have made," said Sen. Arlen Specter, R-Pa., chairman of the Judiciary Committee.

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