Mr. HATCH. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Con. Res. 132) was agreed to, as follows:

S. Con. Res. 132

Resolved by the Senate (the House of Representatives concurring), That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Thursday, July 27, 2000, Friday, July 28, 2000, or on Saturday, July 29, 2000, on a motion offered pursuant to concurrent resolution by its Majority Leader or its designee, it stand recessed or adjourned until noon on Tuesday, September 5, 2000, or until noon on Wednesday, September 6, 2000, or until such time on either day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, July 27, 2000, or Friday, July 28, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until noon on Wednesday, September 6, 2000, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 684, S. 2869.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2869) to protect religious liberty, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I rise today to thank the Senate in anticipa- tion of the passage in the Senate of the Religious Land Use and Institutionalized Persons Act of 2000. I want to express my appreciation specifically to the lead cosponsor of this bill, Senator Kennedy. He and I worked together almost 10 years ago in enacting the Religious Freedom Restoration Act. He has once again demonstrated his commitment to religious liberty by his leadership and effort on this measure.

I also express my appreciation to Senators Thurmond and Reid. Both of these Senators have strong and serious concerns about portions of this bill but were willing to work with us to secure passage of this legislation because of their overriding commitment to religious freedom.

Our bill deals with just two areas where religious freedom has been threatened—land use regulation and persons in prisons, mental hospitals, and other institutions. Our bill will ensure that if a government action substantially burdens the exercise of religion in these two areas, the government must demonstrate that imposing the burden serves a compelling public interest and does so by the least restrictive means. In addition, with respect to land use regulation, the bill specifically prohibits various forms of religious discrimination and exclusion.

It is no secret that I would have preferred a broader bill than the one before us today. Recognizing, however, the hurdles facing passage of such a bill, supporters have correctly, in my view, agreed to move forward on this more limited, albeit critical, effort. The willingness of many serious and well-intentioned persons has brought us to this successful conclusion in the Senate today and likely swift action in the House of Representatives this fall.

I thank all persons involved in this effort. The various groups have come together with other groups in the spirit of cooperation to form the Coalition for the Free Exercise of Religion. They have joined forces and concentrated their energy on this crucial issue—I am grateful to all of them.

In conclusion, I thank the staff members who devoted so much of their time and who worked so hard to ensure the success of this bill. In particular, I would like to thank Eric George, my former counsel, Manus Cooney, my Chief Counsel, Sharon Prost, my Deputy Chief Counsel, and Sam Harkness, a law clerk for the Judiciary Committee. Their collective work has brought us to where we are today.

Furthermore, I would like to express my gratitude to the staff of Senator Kennedy; specifically, Melanie Barnes and David Sutphen, who were a pleasure to work with. Eddie Ayob, from the office of Senator Reid, also provided valuable assistance. Finally, I would like to thank the dedicated professionals at the Department of Justice who helped in the effort.

I ask unanimous consent that the following be printed in the RECORD: A manager's statement consisting of a joint statement by myself and Senator Kennedy; a letter received today from the administration in support of the bill; and several other letters of support.

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

(See exhibit 1)

Mr. President, I commend Chairman Canady on the Senate Judiciary Committee. I am hopeful that the other body can promptly—even this evening is a possibility—pass this bill. I know Congressman Canady has and will continue to do everything he can do to enact this important legislation.

Cathy Cleaver of Chairman Canady's staff has also been indispensable. I acknowledge her for her efforts.

I also thank Senators Kennedy, Reid, and others who have worked so hard on this bill. This is one of the most important bills of this new century, and it is one I am so pleased to be a part of in passing.

Exhibit 1

JOINT STATEMENT OF SENATOR HATCH AND SENATOR KENNEDY ON THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000

SUMMARY AND PURPOSE

The Religious Land Use and Institutionalized Persons Act of 2000 (“This Act”) is a targeted bill that addresses the two frequently occurring burdens on religious liberty. The bill is based on three years of hearings—three hearings before the Senate Committee on the Judiciary and six before the House Subcommittee on the Constitution—that addressed in great detail both the need for legislation and the scope of Congressional power to enact such legislation.

The bill targets two areas: land use regulation, and persons in prisons, mental hospitals, and similar establishments. Within those two target areas, the bill applies only to the extent that Congress has power to regulate the execution of the Spending Clause, or Section 5 of the Fourteenth Amendment. Within this scope of application, the bill applies the standard of the Religious Freedom Restoration Act, 42 U.S.C. §2000bb-1 (1994): if government substance burdened the exercise of religion, it must demonstrate that imposing that burden serves a compelling interest by the least restrictive means.

The willingness of many serious and well-intentioned persons has brought us to where we are today. Recognizing, however, that this right is frequently violated.

NEED FOR LEGISLATION

Land Use. The right to assemble for worship is at the very core of the free exercise of religion. Churches and synagogues cannot function without a physical space adequate to their needs and consistent with their theological requirements. The right to build, buy, or rent such a space is an indispensable adjunct of the core First Amendment right to assemble for religious purposes.

The hearing record compiled massive evidence that this right is frequently violated. Churches in general, and new, small, or unfamiliar churches in particular, are frequently discriminated against on the face of zoning codes. For example, in cases where large groups of people assemble for secular purposes, the codes permit churches only on a motion of the Board, or in the highly individualized discretion of individual approval. In such cases, the government must demonstrate that imposing the burden serves a compelling interest by the least restrictive means.

The bill provides generally that when a claimant offers prima facie proof of a violation of the Free Exercise Clause, the burden of persuasion on most issues shifts to the government.

CATHOLIC UNIVERSITY OF AMERICA
been excluded from residential zones because they generate too much traffic, and from commercial zones because they don't generate enough traffic. Churches have been denied the right to reroute streets in abandoned schools, in converted funeral homes, theaters, and skating rinks—in all sorts of buildings that were permitted when they were non-religious or secular purposes.

The hearing record contains much evidence that these forms of discrimination are very widespread. This evidence is drawn both from statistical—national surveys of cases, churches, zoning codes, and public attitudes. Some of it is anecdotal, with examples from all over the country. Some of it is based on the accounts of witnesses with wide experience who say that the anecdotes are representative. This cumulative and mutually reinforcing evidence is set forth in the report of the House Committee on the Judiciary (House Rep. 106-219) at 18-24, in the testimony of Prof. Douglas Laycock to the Committee on the Judiciary 23-45 (Sept. 9, 1999), and in Douglas Laycock, State RFRA's and Land Use Regulation, 32 U.C. Davis L. Rev. 755, 769-83 (1999).

Discrimination against religious uses is a nationwide problem. It does not occur in every jurisdiction with land use authority, but it occurs in many such jurisdictions throughout the United States and is not often covert. It is impossible to make separate findings about every jurisdiction, or to legislate in a way that reaches only those jurisdictions that are guilty.

Institutionalized Persons. Congress has long acted to protect the civil rights of institutionalized persons. Far more than any other Americans, persons residing in institutions are subject to the authority of one or a few local officials. Institutional residents' right to exercise their faith is at the mercy of those running the institution, and their experience is very mixed. It is well known that prisoners often file frivolous claims; it is less well known that prison officials sometimes impose frivolous or arbitrary rules. Whether from indifference, ignorance, bigottedy, or lack of resources, some institutions restrict religious liberty in egregious and unnecessary ways.

The House Committee on the Constitution heard testimony to this effect from Charles Colson and Patrick Nolan of Prison Fellowship, and in great detail about violations from Isaac Jaroslawicz of the Aleph Institute. The Senate Committee on the Judiciary learned from the testimony of Marc D. Stern (testimony of Marc D Stern June 16, 1998).

Fourteenth Amendment. The land use sections of the bill have a third constitutional basis: they enforce the Free Exercise and Free Speech Clauses as interpreted by the Supreme Court. Congress may act to enforce the Constitution when it has "reason to believe" that the congressional enactment have a significant likelihood of being unconstitutional." City of Boerne v. Flores, 521 U.S. 507, 117 S.Ct. 2157 (1997). The House Committee Report states: "The aggregate of all such transactions is obviously substantial, and this is confirmed by data presented to the House Subcommittee on Constitutional Amendments (testimony of Marc D Stern June 16, 1998).

First, the bill satisfies the constitutional standard factually. The hearing record demonstrates a widespread practice of individualized decisions to grant or refuse permission to use property for religious purposes. These individualized assessments readily lend themselves to discrimination, and they are very difficult to prevent or redress in any individual case. But the committee in each house have examined large numbers of cases, and the hearing record reveals a widespread pattern of discrimination against churches as compared to secular places of assembly, and of discrimination against small and unfamiliar denominations as compared to larger and more familiar ones. This factual record is itself sufficient to support prophylactic rules to simplify the enforcement of constitutional standards in land use regulation.

Both the "General Rules" in §2(a)(1), and the specific provisions in §2(b), are proportionate and congruent responses to the problem identified by Congress. The General Rule does not exempt religious uses from land use regulation; rather, it requires regulators to more fully justify substantial burdens on religious exercise. This duty of justification under a heightened standard of review is proportionate to the widespread discrimination and to the more widespread regulatory schemes. It is directly responsive to the difficulty of proof in individual cases.

Second, without regard to the factual record, the land use provisions of this bill satisfy the constitutional standard legally. Each subsection closely tracks the legal standards in one or more Supreme Court opinions, codifying those standards for greater visibility and easier enforceability.

The General Rules in §2(a)(1), requiring that substantial burdens on religious exercise be justified by a compelling interest, applies only to cases within the spending power or the commerce power, or to cases where the government has obtained individualized assessments of the proposed uses to which the property will be put. Where government makes such individualized assessments, it can deny others, it cannot exclude religious uses without compelling justification. See Church of

Sections 2(b)(1) and (2) prohibit various forms of discrimination against or in respect of religious land uses. These sections enforce the Free Exercise Clause rule against laws that burden religion and are not neutral and generally applicable.

Section 2(b)(3), on exclusion or unreasonable limitation of religious uses, enforces the Free Speech Clause as interpreted in Schad v. Borough of Mount Ephraim, 452 U.S. 318, 325-26 (1981), which held that a municipality cannot entirely exclude the category of first amendment activity. Moreover, the Court distinguished zoning laws under the "protected liberty" from those that burden only property rights; the former require a more constitutionally justified, i.e. at 68-69. Section 2(b)(3) enforces the right to assemble for worship or other religious exercise under the Free Exercise Clause, and the hybrid free speech and free exercise right to assemble for worship or other religious exercise under Schad and Smith.

Section 4(a) shifts the burden of persuasion in cases where the claimant shows a prima facie case for violating the Free Exercise Clause. There are actual constitutional violations in a higher percentage of the set of cases in which the claimant offers such proof and government bears the burden of proof than in those cases in which the government offers evidence that it has made, or has offered in writing to make, a specific accommodation to relieve the substantial burden religion to which the claimant has the burden of persuasion that the proposed accommodation is either unreasonable or ineffective in relieving the substantial burden on religious exercise. This shift is intended to change the burden of proof that the governmental action in question constitutes a substantial burden on religious exercise. In any case in which the government provides prima facie evidence that it has made, or has offered in writing to make, a specific accommodation to relieve the substantial burden on religious exercise, the government bears the burden of proof that the accommodation is either unreasonable or ineffective in relieving the substantial burden on religious exercise.

ADDITIONAL DISCUSSION ON INTENDED SCOPE ON LAND USE PROVISION

Not land use immunity

This Act does not provide religious institutions with immunity from land use regulation, nor does it relieve religious institutions from applying for variances, special permits or exceptions, hardship approval, or other relief provisions in land use regulation where available without discrimination or unfair delay.

Definition of religious exercise

The definition of "religious exercise" under this Act includes the "use, building, or conversion" of real property for religious exercise. However, not every activity carried out by a religious entity or individual constitutes "religious exercise." In many cases, religious use is used by religious institutions for purposes that are comparable to those carried out by other institutions. While recognizing that these activities or facilities are religiously sponsored or regulated by a religious institution, or may permit a religious institution to obtain additional funds to further its religious activities, this alone may not be sufficient to bring these activities or facilities within the bill's definition or "religious exercise." For example, a burden on a commercial building, which is connected to religious exercise primarily by the fact that the proceeds from the building's operation would be used to support religious activities, is not a substantial burden on "religious exercise." In many cases, conversion of real property for religious exercise, including the "use, building, or conversion" for religious exercise, constitutes a substantial burden on religious exercise. In the Lukumi Babalu Aye, Inc. v. City of Hialeah, 506 U.S. 520, 537-38 (1993); Employment Division v. Smith, 494 U.S. 872, 884 (1990).

ADDITIONAL COMMENT

An earlier draft of this legislation had a subsection that would have reversed that result in Bronx Household v. Community School District No. 17776, particularly in light of the Supreme Court's articulation of the concept of substantial burden or religious exercise. In any case where the government provides prima facie evidence that it has made, or has offered in writing to make, a specific accommodation to relieve the substantial burden on religious exercise, the government bears the burden of proof that the accommodation is either unreasonable or ineffective in relieving the substantial burden on religious exercise.


Hon. Orrin G. Hatch, Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Hatch, I am writing to express the Department of Justice's strong support for S. 2869, the "Religious Land Use and Institutionalized Persons Act of 2000." The bill has been supported by such a wide array of private groups interested in the legislation, to craft a constitutional bill. In our view, the legislation is constitutional under governing Supreme Court precedents. In addition, there has been significant concern about the potential impact of S. 2869 on State and local civil rights laws, such as fair housing laws. Although prior legislative proposals implicating civil rights laws in a way that this Act does not, we do not believe it would have an unreasonable impact on prison operations. RFRA has been in effect in the Federal prison system for six years and compliance with that statute has not been an unreasonable burden to the Federal prison system. Since enactment of RFRA in 1994, Federal inmates have filed approximately 65 RFRA lawsuits in Federal court naming the Bureau of Prisons (or its employees) as defendants. Most of these suits have been dismissed or settled with the defendants. Very few, if any, have gone to trial. With respect to RFRA, Congress emphasized that courts should "continue to entertain and decide cases in accordance with the experience and expertise of prison and jail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline and to consider the costs and limited resources." S. Rep. No. 111, 103d Cong., 1st Sess. 10 (1993); see also H.R. Rep. No. 88, 103d Cong., 1st Sess. (1993). With respect to RFRA claims under section 3 of S. 2869. Moreover, in our experience, RFRA claims almost invariably are joined with other claims, such that the security and safety concerns could be outweighed. As is generally the case, we urge that increased Federal enforcement responsibility be accompanied by appropriate resource increases.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's budget, there is no objection to submission of this letter.

Sincerely,

ROBERT RABEN, Assistant Attorney General


Dear Representative: We urge you to co-sponsor the "Religious Land Use and Institutionalized Persons Act (RUPA) (H.R. 4962). This legislation will protect important aspects of a right that is foundational in our country—the right to worship free from governmental interference. It will provide critical protection for houses of worship and other religious assemblies from restrictive land use regulations that all too often stifle the practice of faith in our nation. The legislation also will ensure that institutionalized...
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persons will have the ability to exercise their religion in ways that do not undermine the security, discipline and order of their institutions.

In a series of Congressional hearings beginning in 1997, evidence was presented which indicated that the discretionary, individualized decisions of land use regulation result in a pattern of burdensome and discriminatory actions on the activities of houses of worship and other religious organizations. Testimony prepared by law professors at Brigham Young University and attorneys from the law firm of Mayer, Brown & Platt has shown, for example, that small religious groups and nondenominational churches are greatly overrepresented in reported church zoning cases. Other testimony has documented the fact that some land use authorities have denied the right to practice their faith, in complete discretion in making these determinations. Some testimony presented explicit evidence of religious and racial bias associated with land use determinations.

In a significant number of communities, land use regulation makes it difficult or impossible to build, buy or rent space for a new house of worship or small religious organization. Several community officials have testified that all new houses of worship from an entire city, while others exclude churches except if they are able to secure a special use permit, meaning that zoning authorities hold almost complete discretion in making these determinations. We urge the Senate to pass the legislation without any amendment thereto.

We believe that the new legislation will enable persons who are institutionalized to use their houses of worship or homes for religious exercise. The Hatch-Kennedy bill will be particularly useful for those religious groups whose ministries of feeding or housing low-income or homeless persons have been curtailed by zoning laws.

Mr. KENNEDY. Mr. President, religious freedom is a bedrock principle in our Nation. The Religious Land Use and Institutionalized Persons Act of 2000 reflects our commitment to protect religious freedom and our belief that Congress still has the power to enact legislation to enhance that freedom, even after the Supreme Court's decision in 1997 that struck down the broader Religious Freedom Restoration Act that 97 Senators joined in passing in 1993.

Our bill has the support of the Free Exercise Coalition, which represents over 50 diverse and respected groups, including the Family Research Council, the Christian Legal Society, the American Civil Liberties Union, and People for the American Way. The bill also has the endorsement of the Leadership Conference on Civil Rights.

We are grateful for the work of the bill's sponsors in drafting the consensus legislation. The Hatch-Kennedy bill provides an important remedy for persons residing in, or confined to, state or local institutions, as defined by the Religious Land Use and Institutionalized Persons Act. The new legislation makes clear that, in governmental residential facilities such as state hospitals, nursing homes, group homes, and prisons, the government may not dictate whether, how, or when individuals can practice their religion, unless the government has a compelling interest in doing so. The legislation will help ensure that no religious group will not be stripped of its or his ability to exercise his or her religious beliefs when entering a state or local government-run hospital, nursing home, group home, or prison.

We appreciate your consideration of our views on this issue. We urge the Senate to pass the legislation without any amendment.
be counterproductive if this effort to protect religious liberties led to confrontation and conflict between the civil rights community and the religious community, or to a further court decision striking down the new law. We believe that succeeds in avoiding these difficulties by addressing two of the most obvious current threats to religious liberty and by leaving open the question of what future Congressional actions can be taken to protect religious freedom in America.

Our goal in passing this legislation is to reach a reasonable and constitutionally sound balance between respecting the compelling interests of government and protecting the ability of people freely to exercise their religion. We believe that the legislation accomplishes this goal in two areas where infringement of this right has frequently occurred—the application of land use laws, and treatment of persons who are institutionalized. In both of these areas, the actions by governments that interfere with the religious liberties led to congressional interest to overcome the strict scrutiny standard to the actions that imposed substantial burdens on the exercise of religion. As my colleagues know, the strict scrutiny test is the highest standard the courts apply to actions on the part of government. However, in 1990, in Employment Division, Oregon Department of Human Resources v. Smith, the Supreme Court largely eliminated the strict scrutiny test for free exercise cases.

Three years later, in direct response to the Smith decision, the 103rd Congress enacted the Religious Freedom and Restoration Act (RFRA), reapplying and extending the strict scrutiny test to all government actions, including those of state and local governments, that imposed substantial burdens on religious exercise. In 1997, the Supreme Court ruled, in City of Boerne, Texas v. Flores, that RFRA's coverage of state and local governments exceeded Congressional authority. In response to the City of Boerne ruling, the Religious Liberty Protection Act (RLPA) was introduced during the 105th Congress. RLPA also reappplied a strict scrutiny standard to the actions of state and local governments with respect to religious exercise, but attempted to draw its authority from Congressional powers to attach conditions to federal funding programs and to regulate commerce. While the companion measure passed the House of Representatives overwhelmingly in July 1999, the legislation stalled in the Senate when legitimate concerns were raised that RLPA, as drafted, would supersede certain civil rights, particularly in terms of employment and housing. These concerns were most troubling to the gay and lesbian community. Discrimination based upon race, national origin, and to lesser certainty, gender, would have been protected regardless of RLPA. Because the courts have recognized that preventing such discrimination is a sufficient enough compelling government interest to overcome the strict scrutiny standard that RLPA would apply to non-uniform zoning regulations, the effect of overly-restricting the size and location, among other things, of churches and temples. Often times, such regulations simply prohibit the construction of any church or temple. Under the legislation which Senators Hatch and Kennedy have crafted, the strict scrutiny test contained within RLPA would apply to land use decisions. In other words, state and local zoning boards would be required to use the least restrictive means possible to advance a compelling state interest. I recognize that this is a high standard to meet, certainly much higher than current law, where zoning regulations are rarely overturned in court on religious exercise grounds. However, I also believe that the free exercise of religious liberties deserves, in fact demands, such a high level of protection.

As I stated earlier, protecting hard-fought civil rights, including those which prohibit discrimination based upon sexual orientation, played an important role in my desire to pursue a more narrowly-tailored religious freedom measure. I am proud to have had the opportunity to work with Senators Hatch and Kennedy to accomplish the worthwhile endeavor of protecting legitimate civil rights while at the same time protecting the free exercise of religion involving land use decisions.

While the first section of S. 2869 focuses upon land use, the second concerns the free exercise of religion as applied to institutionalized persons, i.e., prisoners. As my colleagues are well aware, in 1993, during the consideration of the Religious Freedom Restoration Act, I offered an amendment on the Senate floor that would have prohibited the applicability of RFRA to incarcerated individuals. I offered

Mr. President, as I was considering the merits of the Religious Liberty Protection Act, these concerns weighed heavily upon my mind. I say that because I was a proud supporter of the Religious Freedom Restoration Act, which we passed overwhelmingly during the 104th Congress. After the Supreme Court strike it down. I was, and remain, particularly supportive of the Land use provisions contained within RFRA, and RLPA, and which constitute the first of the two major components of the Religious Land Use and Institutionalized Persons Act which we are considering today. As my colleagues may know, land use decisions are extremely important to many of the religious organizations which have joined together in the effort to get this legislation passed and signed into law. With some affiliations, legislation affecting land use decisions are the most important aspects of protecting the free exercise of religion. This is especially true for the Church of Jesus Christ of Latter Day Saints. Under current law, the LDS Church maintains serious reservations about non-uniform zoning regulations through the country which, though religiously-neutral on their face, have the effect of overly-restricting the size and location, among other things, of churches and temples. Often times, such regulations simply prohibit the construction of any church or temple. Under the legislation which Senators Hatch and Kennedy have crafted, the strict scrutiny test contained within RLPA would apply to land use decisions. In other words, state and local zoning boards would be required to use the least restrictive means possible to advance a compelling state interest. I recognize that this is a high standard to meet, certainly much higher than current law, where zoning regulations are rarely overturned in court on religious exercise grounds. However, I also believe that the free exercise of religious liberties deserves, in fact demands, such a high level of protection.

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While the first section of S. 2869 focuses upon land use, the second concerns the free exercise of religion as applied to institutionalized persons, i.e., prisoners. As my colleagues are well aware, in 1993, during the consideration of the Religious Freedom Restoration Act, I offered an amendment on the Senate floor that would have prohibited the applicability of RFRA to incarcerated individuals. I offered
that amendment for a variety of reasons, not the least of which was my belief, one that I continue to hold, that prisoners in this country have become entirely too litigious. Frivolous lawsuits seem to be the norm, not the exception. This unbelievable situation within our federal judicial system, coupled with the high costs that my home State of Nevada was incurring defending frivolous prisoner lawsuits, led me to offer the amendment which would have prohibited the applicability of RFRA to prisoners. Regrettably, that effort failed. However, I remained a proud supporter of the underlying legislation.

Seven years later, I am faced with a similar set of circumstances. I support the underlying legislation which protects the free exercise of religion as applied to land use decisions, but I remain concerned that the applicability of the strict scrutiny standard to religious exercises within our federal, state, and local penitentiary systems will encourage prisoners, and the courts, to second-guess the decisions of our corrections employees and other prison officials. Furthermore, I have been contacted by many officers and employees of the American Federation of State, County and Municipal Employees, AFSCME, which represents more than 60,000 dedicated men and women who are on the front line in our nation’s prisons. They have legitimate concerns about what impact this legislation may have on prison security.

A number of corrections officers have contacted me to relay their own personal experiences. These dedicated men and women have real concerns. In fact, AFSCME recently alerted their corrections officer membership that this legislation was coming up for a vote, and was deluged with phone calls from members expressing their distress about how this bill might affect their ability to maintain security and protect the safety of the public. As you can well imagine, getting inmates to comply with security measures in prison is no easy task. Many prisoners will use any excuse to avoid searches and to evade institutional rules, instituting their own rules to protect prison personnel and the general public from harm.

While I continue to believe that we should not extend the privilege of a strict scrutiny standard to restrictions on the free exercise of religion behind the bars of our nation’s prisons, I also recognize certain realities. The Prison Litigation Reform Act, PLRA, which we passed during the 104th Congress, has led many Senators to believe that my amendment is no longer necessary. I disagree with this conclusion that PLRA applied to RFRA from April 1996, through June 1997, and there was no perceivable reduction in the number of prisoner RFRA lawsuits, or their corresponding burden. Furthermore, with specific regard to corrections employees, even when cases are screened and dismissed under the provisions of the Prison Litigation Reform Act, those lawsuits still show up on the public record, making it much more difficult for corrections employees who have been sued to obtain mortgages and car loans.

Mr. President, rather than offer an amendment to strike the provisions of S. 2869 relating to Institutionalized Persons and risk the certainty that this legislation would fail this year, I have decided, in consultation with the managers of this legislation, to pursue a different approach. My distinguished colleague from Utah, the Chairman of the Judiciary Committee, has agreed to hold a hearing next year on the impact of this legislation on our nation’s penal institutions and their dedicated employees. I am hopeful that this will provide the crucial information for corrections administrators and other personnel to air their concerns about how this legislation may affect security in these institutions. I would also expect several Attorneys General, including the Nevada Attorney General who has made limiting frivolous prisoner lawsuits a priority in my home State, to express their opinions. I look forward to this debate, and I would offer my personal gratitude to Chairman HATCH for the commitment.

I also plan on joining with Senator HATCH to request that the General Accounting Office conduct a detailed study as to what effects the Religious Freedom Restoration Act had on our nation’s prisons, both before, during and after the application of the Prison Litigation Reform Act, and what effects, at the appropriate time, this legislation will have.

In conclusion, Mr. President, while I retain my reservations about the inclusion of prisoners in S. 2869, I commend Senators HATCH and KENNEDY for diligently working in a bipartisan fashion to craft a narrowly-tailored religious freedom protection measure that will pass this Senate.

Mr. HATCH. Mr. President, I thank my friend, the assistant Democratic leader and the Senior Senator from Nevada, for his leadership which has allowed us to bring S. 2869 to the floor today. He has worked closely with my self and Senator KENNEDY, and I am sure he joins me in thanking the Senator for his contributions to this important legislation.

I would also say that I recognize his commitment to reducing the number of frivolous lawsuits by prisoners, and that several of our colleagues, particularly Senator THURMOND, have raised serious concerns relating to the Institutionalized Persons section of the bill. I respect these concerns, and, as I have related to the Senator, I am committed to holding a hearing next year in the Judiciary Committee on these matters.

Mr. REID. I thank the distinguished Chairman of the Judiciary Committee and I look forward to that hearing next year.

I also ask if it is the chairman’s intention to join with me in requesting that the General Accounting Office conduct a study on the effects that the Religious Freedom and Restoration Act has had, and that the Religious Land Use and Institutionalized Persons Act will have on our nation’s prisons, both at the federal and state level, including the dedicated men and women who serve this country as corrections employees.

Mr. HATCH. The Senator is correct to state that I intend to request such a study from the GAO.

Mr. REID. Again, I thank the distinguished chairman. I also reiterate my appreciation and congratulations to him and Senator KENNEDY for the outstanding work they have done on a bipartisan basis to bring this legislation to the floor.

Mr. HATCH. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statement regarding to the bill be printed in the RECORD.

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

The bill (S. 2869) was read the third time and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Land Use and Institutionalized Persons Act of 2000."

SEC. 2. PROTECTION OF LAND USE AS RELIGIOUS EXERCISE.

(a) SUBSTANTIAL BURDENS.—

(I) GENERAL RULE.—No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

(ii) SCOPE OF APPLICATION.—This subsection applies in any case in which—

(A) the substantial burden is imposed in a program or activity that receives Federal financial assistance; or

(B) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or

(C) the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

(b) DISCRIMINATION AND EXCLUSION.—

(1) EQUAL TERMS.—No government shall impose or implement a land use regulation...
in a manner that treats a religious assembly.

(2) **NONDISCRIMINATION.** No government shall impose a substantial burden on the religious exercise.

(3) **DEFINITIONS.**

(a) **LEGAL RULE.**—No government shall impose a substantial burden on the religious exercise unless, in the case of an institutionalized person, as defined in section 5 of the Religious Land Use and Institutionalized Persons Act of 2000, that substantial burden would result in a substantial burden on the religious exercise of institutionalized persons.

(b) **RELIGIOUS EXERCISE NOT REGULATED.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(c) **OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(d) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(e) **RELIGIOUS EXERCISEunte.*

(f) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(g) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(h) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(i) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(j) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(k) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

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(o) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

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(q) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(r) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(s) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(t) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(u) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(v) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(w) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(x) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(y) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.

(z) **FIRST AMENDMENT CLAUSE.**—Nothing in this Act shall create any basis for excluding or removing any substantial burden on the religious exercise of institutionalized persons.
Mr. HATCH. The Assistant legislative clerk read the following:

A bill (H.R. 3244) to combat trafficking of persons, especially into the sex trade, slavery-like conditions, in the United States and countries around the world through prevention, through prosecution and enforcement against traffickers, and through protection and assistance to victims of trafficking.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4027

Mr. HATCH. My understanding is Senator Brownback and Wellstone have an amendment to the bill. The PRESIDING OFFICER. The clerk will report.

The Assistant legislative clerk read as follows:

The Senator from Utah [Mr. Hatch], for Mr. Brownback and Mr. Wellstone, proposes an amendment number 4027.

Mr. HATCH. Mr. President, I ask unanimous consent that the amendment be dispensed with. The text of the amendment is printed in today’s RECORD under “Amendments Submitted.”

AMENDMENT NO. 4028 TO AMENDMENT NO. 4027

Mr. HATCH. Mr. President, I have a second amendment by the Senator from Utah [Mr. Hatch], for Mr. Brownback and Mr. Wellstone, proposed an amendment number 4027.

Mr. HATCH. I ask unanimous consent that the amendment be dispensed with. The text of the amendment is printed in today’s RECORD under “Amendments Submitted.”

Mr. WELLS. I rise today to address the widespread problem of international trafficking in persons, particularly women and children, for the purposes of sexual exploitation and forced labor, and to seek your continued support for legislation aimed at curtailing this horrific crime.

Trafficking in persons becomes more insidious and widespread everyday. For example, every year approximately one million women and children are forced into the sex trade against their will. A recent CIA analysis of the international trafficking of women into the United States reports that as many as 50,000 women and children each year are brought into the United States and forced to work as prostitutes, forced laborers and servants. Others credibly estimate that the number is probably much higher.

Those whose lives have been disrupted by civil wars or fundamental changes in political geography, such as the disintegration of the Soviet Union or the violence in the Balkans, have fallen prey to traffickers. Seeking financial security, many innocent persons are lured by traffickers’ false promises of a better life and lucrative jobs abroad. However, upon arrival in destination countries, these victims are often stripped of their passports and held against their will, some in slave-like conditions. Rape, intimidation and violence are commonly employed by traffickers to control their victims and to prevent them from seeking help.

Trafficking rings are often run by criminals operating through nominally reputable agencies. In some cases overseas, police and immigration officials of other nations participate in or benefit from trafficking. In other cases, lack of awareness or complacency among government officials, such as border patrol and consular officers, contribute to the problem. Furthermore, traffickers are rarely punished as official policies often inhibit victims from testifying against their traffickers, making trafficking a highly profitable, low-risk business venture for some.

In April my esteemed colleague from Kansas and I introduced separate bills to combat trafficking in persons. I introduced S. 2444, the Trafficking Victims Protection Act of 2000, and he introduced S. 2449, the International Trafficking Act of 2000. But, although we earlier introduced these separate bills, we would like to relay to you the truly bipartisan effort this has been. This effort is reflected in the bill we passed today.

The Trafficking Victims Protection Act of 2000 is a comprehensive bill that aims to protect persons, provide protection and assistance to those who have been trafficked, and strengthen prosecution and punishment of those responsible for trafficking. It is designed to help federal law enforcement officials expand anti-trafficking efforts here and abroad; to expand domestic anti-trafficking and victim assistance efforts; and to assist non-governmental organizations, governments and others who are providing critical assistance to victims of trafficking.

The Trafficking Victims Protection Act of 2000 addresses the underlying problem by which fuel the trafficking industry by promoting public anti-trafficking awareness campaigns and initiatives to enhance economic opportunity, such as micro-credit lending programs for those most susceptible to trafficking. It also increases protections and services for trafficking victims by establishing programs designed to assist in the safe reintegration of victims into their community, and ensure that such programs address both the physical and mental health needs of trafficking victims.

Further, the bills seek to stop the practice of immediately deporting victims back to potentially dangerous situations, thereby denying them immigration relief and the time necessary to bring charges against those responsible for their condition. It also toughens current federal trafficking penalties, criminalizing all forms of trafficking in persons and establishing punishment commensurate with the heinous nature of this crime.

This bill requires expanded reporting on trafficking, including a separate list of countries which are not meeting minimum standards for the elimination of trafficking. It authorizes the President to suspend assistance to the worst violators on the list of countries which do not meet these minimum standards, and provides the flexibility needed to combat the complex, multi-faceted, and often multi-jurisdictional nature of this crime, while maintaining the prospect of tough enforcement against governments who persistently ignore, or whose officials are even complicit in, trafficking within their own borders. It allows Congress to monitor closely the progress of countries in their fight against trafficking and gives the Administration flexibility to curtail the complex, multi-faceted, and often multi-jurisdictional nature of this crime.

Since we began working on this issue, Senator Brownback and I have met with trafficking victims, after-care providers, and human rights advocates from around the world who have reminded us again and again of the horrible, widespread and growing nature of this human rights abuse. Today this Chamber has taken an important first step toward the elimination of trafficking in persons. We are thankful for your support.

Mr. HATCH. Mr. President I ask unanimous consent that the amendment be dispensed with. The text of the amendment is printed in today’s RECORD under “Amendments Submitted.”

The bill (H.R. 3244), as amended, was agreed to.

The amendments (Nos. 4027 and 4028) were agreed to.

The bill (H.R. 3244), as amended, was read the third time and passed.