''*Resolved,* That we urge the President and the Congress of the United States to place a moratorium on the donation of blood, blood products and organs by veterans of the Gulf War until a determination regarding the communicability of these illnesses has been made; and be it further

''*Resolved,* That the Secretary of State be directed to send enrolled copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to each member of the Kansas Congressional Delegation, to the Administrator of Veterans Affairs, to the Secretary of Defense and to the Secretary of Health and Human Services (Center for Disease Control).''

POM–610. A concurrent resolution adopted by the Legislative of the State of Oklahoma; to the Committee on Veterans' Affairs.

''SENATE CONCURRENT RESOLUTION NO. 57

''Whereas, Oklahoma's atomic veterans showed steadfast dedication and undisputed loyalty to their country and made intolerable sacrifices in service to their country; and

''Whereas, these atomic veterans gave their all during the terribly hot atomic age to keep our country strong and free; and

''Whereas, these atomic veterans were unknowingly placed in the line of fire, after being assured that they faced no harm, and were subjected to an ungodly bombardment of ionizing radiation; and

''Whereas, the radiation to which they were exposed is now and will continue eating away at their bodies every second of every day for the rest of their lives with no hope of cessation or cure; and

''Whereas, because their wounds were not of the conventional type and were not caused by the enemy but by the United States Government, the atomic veterans did not receive service-connected medical and disability benefits and did not receive a medal such as the Purple Heart; and

''Whereas, many atomic veterans have already died and others will die a horrible and painful death; now therefore, be it

''*Resolved by the Senate of the 2nd session of the 45th Oklahoma Legislature, the House of Representatives concurring therein:*

''That atomic veterans be recognized by the federal government.

''That the United States Senators and Representatives from Oklahoma propose or support legislation granting service-connected medical and disability benefits to all atomic veterans who were exposed to ionizing radiation and propose or support legislation issuing a medal to atomic veterans to express the gratitude of the people and government of the United States for the dedication and sacrifices of these veterans.

''That copies of this resolution be distributed to the President of the United States, the Vice President of the United States, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, the Secretary of Defense, the Secretary of Veterans Affairs, the Chairs of the United States House and Senate Veterans Affairs Committees, and each member of the Oklahoma Congressional Delegation.

''Adopted by the Senate the 21st day of May, 1996.''

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, without amendment:

S. 253. A bill to repeal certain prohibitions against political recommendations relating to Federal employment, to reenact certain provisions relating to recommendations by Members of Congress, and for other purposes (Rept. No. 104–282).

S. 1577. A bill to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001 (Rept. No. 104–283).

By Mr. STEVENS, from the Committee on Governmental Affairs, with amendments:

H.R. 2739. A bill to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1888. An original bill to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 1996.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Vicky A. Bailey, of Indiana, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2001.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INHOFE (for himself, Mr. FAIRCLOTH, Mr. GRAMS, Mr. ABRAHAM, Mr. HELMS, and Mr. MCCONNELL):

S. 1885. A bill to limit the liability of certain nonprofit organizations that are providers of prosthetic devices, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 1886. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of educational grants by private foundations, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. HATCH, and Mr. HEFLIN):

S. 1887. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1888. An original bill to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 1996; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1889. A bill to authorize the exchange of certain lands conveyed to the Kenai Native Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, and for other purposes; to the Committee on Energy and Natural Resources..

By Mr. FAIRCLOTH (for himself, Mr. KENNEDY, Mr. HATCH, Mr. BIDEN, Mr. LOTT, Mr. DASCHLE, Mr. THURMOND, Mr. BYRD, Mr. WARNER, Mr. LEAHY, Mr. COCHRAN, Mr. HEFLIN, Mr. D'AMATO, Mr. JOHNSTON, Mr. GRAMM, Mr. BREAUX, Mr. FRIST, Ms. MOSELEY-BRAUN, Mr. LEVIN, Mr. SIMON, Mr. ROCKEFELLER, Mr. REID, Mr. DODD, Mr. GLENN, Mr. KERREY, Mr. KERRY, Mr. HARKIN, Mr. BRADLEY, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Mrs. BOXER, Mr. WYDEN, Mrs. HUTCHISON, Mr. COVERDELL, Mr. PRYOR, Mr. LAUTENBERG, and Mrs. FEINSTEIN):

S. 1890. A bill to increase Federal protection against arson and other destruction of places of religious worship; read twice, and placed on the calendar.

By Mrs. BOXER (for herself and Mr. BINGAMAN):

S. 1891. A bill to establish sources of funding for certain transportation infrastructure projects in the vicinity of the border between the United States and Mexico that are necessary to accomodate increased traffic resulting from the implementation of the North American Free Trade Agreement, including construction of new Federal border crossing facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself and Mr. WELLSTONE):

S. 1892. A bill to reward States for collecting medicaid funds expended on tobacco-related illnesses, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1893. A bill to provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE (for himself, Mr. FAIRCLOTH, Mr. GRAMS, Mr. ABRAHAM, Mr. HELMS, and Mr. MCCONNELL):

S. 1885. A bill to limit the liability of certain nonprofit organizations that are providers of prosthetic devices, and for other purposes; to the Committee on the Judiciary.

THE PROSTHETIC LIMB ACCESS ACT OF 1996

Mr. INHOFE. Mr. President, a few years ago I became exposed to a problem that exists in the lives of thousands of Americans. It happened when one of my closet friends in Oklahoma, Buddy Martin; lost both of his legs.

He was one of the fortunate ones who had the resources to purchase artificial limbs, and is able to live today a much more normal life than one could imagine.

It is because of this exposure that I rise today to introduce a bill to provide relief to thousands of Americans. Everyday far too many Americans are unable to live full and productive lives like Buddy Martin because they cannot afford adequate prosthetic care. There are over 250,000 Americans who cannot afford adequate prosthetic care. While the government provides assistance through Medicare and other programs they can not meet all of the needs, and they don't have to. The private sector

stands ready to help, through nonprofit foundations, but they cannot because of our country's product liability laws. That is why I am introducing the Prosthetic Limb Access Act of 1996, I am joined by my colleagues Senators FAIRCLOTH, GRAMS, ABRAHAM, and HELMS.

In Oklahoma, a nonprofit foundation called Limbs for Life takes used artificial limbs, reconditions them, and provides them to needy people in third world countries, they do not give them to Americans. It is not because there is not the need, they do not provide them because of our country's laws regarding product liability. They would be unable to afford the necessary insurance to provide the limbs to needy Americans. One doctor in Oklahoma, Dr. John Sabolich, the Nation's foremost prosthesis expert, currently saws used devices in half before throwing them away, because of liability. He showed me a $50,000 prosthetic arm that was about to be destroyed; to make it reusable would only have required about 20 minutes of work. It is a disgrace that perfectly good artificial limbs have to be destroyed when there are thousands of Americans who could use them.

My bill would provide the necessary product liability relief, while still protecting the patients by providing relief for intentional wrongdoing. This would allow hundreds of Americans to care for themselves, work, and better enjoy a more full life.

There are over 3,000 new amputations each week, which amounts to 160,000 amputations each year, for a grand total of 3.8 million amputees in the United States. The number of new amputees has increased over the years because of the early detection of cancer, doctors are able to detect cancer earlier and it is better to sacrifice a limb to save a person. Therefore the demand for more limbs by needy people will only increase. I have been told that if this bill is enacted that at least 2,000 limbs per year could be made available for needy Americans. These are 2,000 people who otherwise would not have access to an artificial arm or leg. These are 2,000 people who are currently not living full and productive lives, who need assistance to care for themselves, sometimes to just accomplish tasks that we all take for granted such as eating, moving around, or even working.

I have met many of these people who would benefit from this legislation and have listened to their heartbreaking stories. And for everyone I've heard of there are hundreds more who go daily without a prosthetic device, depending on others.

There is Nestor, a man who is missing both arms. He states:

> My prosthesis is broken and I am unable to eat or do any activities of daily living such as personal care or cooking. I live alone and have no friends to help, so I must do things for myself.

There is Pearl, a 46-year-old woman with one leg missing, who lives in a nursing home. She said:

> I slip and fall so often when my crutches slip away from me—and it hurts a lot when my wrist or neck or other body parts are throbbing with pain for weeks due to my falls—and although I try to be careful and watchful, the crutches still can slip away from me when encountering the mopped floors or wet spots that are in a nursing home.

There is Dalia, she was fitted with her current prosthesis in 1983, but since then her body has changed and it no longer fits properly. She says:

> When I changed prosthesis, my whole body changed, my balance is off especially effecting my back. I have fallen down, have worsening osteoporosis and am very frustrated because I can't do the things I used to do.

Mr. President, I know these are sad stories, and I know we as Members run across sad stories every day. But here we can do something positive for them, which will solve their problems, at no cost to the taxpayers. We can provide them the same medical services we are now giving poor people in third world countries, and we can do this through the nonprofit sector. We have needy people and a willing organization ready to help. Mr. President, we should at least treat our own citizens as well as we treat those in other countries.

Mr. President, my legislation is supported not only by the Limbs for Life Foundation, but also: Goodwill Industries, National Amputee Fund, National Association for the Advancement of Orthotics and Prosthetics, American Academy of Physical Medicine and Rehabilitation, and the American Congress of Rehabilitation Medicine.

Mr. President, this is a simple bill which would create major relief for a number of needy people. It is not a broad product liability bill, so therefore it should not draw the opposition that other bills have received this Congress. It corrects a small problem that literally means the world for a large group of disabled Americans. I hope we can move this bill forward this year.

By Mr. FRIST:

S. 1886. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of educational grants by private foundations, and for other purposes; to the Committee on Finance.

EDUCATIONAL GRANTS LEGISLATION

● Mr. FRIST. Mr. President, I introduce a bill which is essential in building a higher educated and more productive labor force as we move toward the next century. My bill would encourage private foundations to increase the amounts they currently provide for educational assistance to students in their communities.

Currently, guidelines developed by the Internal Revenue Service can have the effect of prohibiting certain foundations from being able to provide the maximum amount of educational assistance to local students. As the Federal Government faces greater and greater fiscal constraints, we must look for ways to encourage the private sector to fill unmet educational needs.

Essentially, under current law, a private foundation will not suffer tax penalties if it meets certain tests when providing scholarships or educational loans to employees, or children of employees, of a particular employer. While there is a facts and circumstances test which can be met, uncertainty surrounding application of this test to an employer-related grant program results in much greater usage of a safe-harbor percentage test which has been developed by the Internal Revenue Service. This safe-harbor percentage test basically limits the amount of scholarships and loans that a foundation may provide to one out of four applicable children of employees of a particular company. This 25-percent test can cause hardship, especially in cases where a substantial percentage of the community at large works for a single employer.

My proposal eliminates this rigid 25-percent test.

I hope my colleagues will join me in supporting this essential education bill. By providing these private foundations relief from the IRS' rigid 25-percent test, we will be granting valuable and badly needed educational support to America's hard-working families.●

By Mr. GRASSLEY (for himself, Mr. HATCH, and Mr. HEFLIN):

S. 1887. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL COURTS IMPROVEMENTS ACT OF 1996

● Mr. GRASSLEY. Mr. President, I am introducing for myself, Senator HATCH, and Senator HEFLIN, a bill entitled ''The Federal Courts Improvements Act of 1996.'' A first version of the bill, S. 1101, was introduced in August 1995, at the request of the Judicial Conference. In October of last year, we held a comprehensive hearing on that bill in the Judiciary Subcommittee on Administrative Oversight and the Courts, which I chair, at which both judges and lawyers testified at length on the substance of many of S. 1101's provisions. The present bill was crafted after many months of detailed discussions and intense collaboration between myself, Senators HATCH and HEFLIN, and the Administrative Office of the U.S. Courts. More importantly, we have worked closely with the other members of the subcommittee to address their concerns and include their suggestions, making this truly a bipartisan bill.

At the onset, I would like to elaborate on the spirit in which this bill was crafted. I am sure my colleagues are well aware, many of my efforts have focused on saving the Federal Government's sparse resources and making the most of taxpayer dollars. As chairman of the Judiciary Subcommittee with jurisdiction over the courts, I am also concerned that the Federal judicial system be administered in the

most efficient and cost-effective manner possible, while maintaining a high level of quality in the administration of justice. In fact, I sent out a judicial questionnaire earlier this year requesting assistance from individual judges on their ideas and views of the needs of the Federal judiciary. I hope some of you have had the opportunity to review my subcommittee's report on the courts of appeal, which I released recently. The report on the District courts will be completed shortly. I found it enlightening to communicate with the individual judges, and hope that these lines of candid and constructive communication with the individual judges and the Administrative Office remain open and continue to produce beneficial results in terms of efficiency, cost savings, and other improvements within the Federal judiciary.

In drafting the Federal Courts Improvement bill, we worked closely with the Administrative Office to assess and address the needs of the Federal judiciary. As a result, the bill contains both technical and substantive changes in the law, many of which were carried over from previous Congresses and-or originally proposed in S. 1101. During our working sessions on the bill, some of the provisions in S. 1101, such as the sections dealing with Federal Defender Services matters, were determined to warrant further inquiry or additional hearings. On the whole, the bill is broad-reaching, and contains provisions concerning judicial process improvements; judiciary personnel administration, benefits and protections; judicial financial administration; Federal Courts Study Committee recommendations; and other miscellaneous issues. Almost all of the provisions have been formally endorsed by the Judicial Conference, the governing body of the Federal courts. I would now like to mention some of the more salient provisions of the bill.

Many provisions contained in this bill streamline the operation of the Federal court system. A good example of our attempt to render the judiciary more efficient is section 605, which abolishes a special tribunal with narrow jurisdiction, the Special Court, the Regional Rail Reorganization Act of 1973, established in the early 1970's to oversee the reorganization of insolvent railroads. The work of this court is basically concluded, with the court's docket containing 10 largely inactive cases. This section transfers the Special Court's jurisdiction over those cases and any future rail reorganization proceedings to the U.S. District Court for the District of Columbia, where the court's records and a majority of its judges are currently located, and makes other technical and conforming changes incidental to the court's abolition. The elimination of this court will produce budgetary and administrative economies and, according to the Administrative Office of the U.S. Courts, result in an annual cost savings of approximately $175,000.

Section 209 simplifies the appeal route in civil cases decided by magistrate judges with consent by confining appeals of judgments in such cases to the court of appeals and eliminating an alternative route of appeal to the district judge. A single forum of appeal in civil consent cases simplifies court procedures and recognizes the existing practice in most districts. The Judicial Conference recommended such action in the long range plan for the Federal courts. Also, this section would not alter the role of magistrate judges as adjuncts to article III courts since district judges would still control the referral of consent cases to magistrate judges.

Section 304 changes the reappointment procedure for incumbent bankruptcy judges. Rather than requiring the judicial council for a circuit or a merit selection panel to undergo a lengthy and time-consuming screening process, this section streamlines the reappointment process for judges whose performance has previously been reviewed. In this manner, the section eliminates unnecessary expenditures of time and money.

Another example is section 202, which authorizes magistrate judges to try all petty offense cases. Traditionally, safeguards applicable to criminal defendants charged with more serious crimes have not been applicable to petty offense cases because the burdens were deemed undesirable and impractical in dealing with such minor misconduct. Section 202 also authorizes magistrate judges to try misdemeanor cases upon either written consent or oral consent of the defendant on the record. This amendment enhances the efficiency of the courts, since most defendants routinely consent to proceeding before the Federal magistrate judge system. Presently, consent to trial of misdemeanor cases by magistrate judges is required to be in writing, although there is no legal significance between written consent and consent made orally on the record, provided that the defendant's consent is made with full knowledge of the consequences of such consent, is intelligently given, and is voluntary. Elimination of the written-consent requirement saves time and eases burdensome paperwork for court personnel, while preserving knowing and voluntary consent in such cases.

Additional sections that facilitate judicial operations are sections 201 and 205. Section 201 authorizes magistrate judges temporarily assigned to another judicial district because of an emergency to dispose of civil cases with the consent of the parties. Section 205 clarifies that deputy clerks may act whenever the clerk is unable to perform official duties for any reason, and permits the court to designate an acting clerk of the court, when it is expected that the clerk will be unavailable or the office of clerk will be vacant for a prolonged period.

Provisions in this bill also clarify existing law to better fulfill Congress' original intent. For example, section 208 enables the United States to obtain a Federal forum in which to defend suits against Federal officers and agencies when those suits involve Federal defenses. This section would legislatively reverse the Supreme Court's decision in *International Primate Protection League, et al.* v. *Administrators of Tulane Educational Fund, et al.,* 111 S.Ct. 1700 (1991), which held that only Federal officers, and not Federal agencies, may remove State court actions to Federal court pursuant to 28 U.S.C. 1442(a)(1). The section would also reverse at least three other Federal district court decisions which held that Federal officers sued exclusively in their official capacities cannot remove State court actions to Federal court. The result of these decisions has been that Federal agencies have had to defend themselves in State court, despite important and complex Federal issues such as preemption and sovereign immunity. Section 208 fulfills Congress' intent that questions concerning the exercise of Federal authority, as well as the scope of Federal immunity and Federal-State conflicts, be adjudicated in Federal court. It also clarifies that suits against Federal agencies, as well as those against Federal officers sued in either an individual or official capacity, may be removed to Federal district court. More importantly, this section does not alter the requirement that a Federal law defense be alleged for a suit to be removable pursuant to 28 U.S.C. §1442(a)(1).

Another example is section 503, which repeals a provision in a 1981 continuing appropriation resolution barring annual cost-of-living adjustments in pay for Federal judges except as specifically authorized by Congress. Repeal of section 140 restores the operation of 28 U.S.C. §461 as to article III judges and parity with the other two branches of Government, as enacted by the Federal Salary Cost-of-Living Adjustment Act of 1975 and amended by the Ethics Reform Act of 1989.

Several sections improve the judicial court system in other ways. Section 206 amends section 1332 of title 28 relating to diversity jurisdiction to raise the jurisdictional amount in diversity cases from $50,000 to $75,000. The purpose of this amendment is to supplement the increase of the jurisdictional amount from $10,000 to $50,000 in the 100th Congress by a modest upward adjustment to $75,000. Section 210 requires each Judicial Council to submit an annual report to the Administrative Office of the United States Courts on the number and nature of orders relating to judicial misconduct or disability under section 332 of title 28 of the United States Code. This reporting requirement was recommended by the Report of the National Commission on Judicial Discipline and Removal of August 1993, which found that reliable information concerning council orders was difficult to obtain.

In addition, section 608 extends by 6 months the due date of the Civil Justice Reform Act reports on the demonstration and pilot programs. The bill at section 609 also extends the authorization of appropriations by 1 year of the use of arbitration by district courts under 28 U.S.C. §651. This will give us more time, if needed, to consider how we will implement permanently alternative dispute resolution in the courts.

In conclusion, this bill is the result of careful consideration by members of the subcommittee and their staff, in close collaboration with the Administrative Office, who have all worked long and hard in attempting to produce a strong, bipartisan piece of legislation. I am pleased to say that the legislation we are introducing today not only enhances and improves the operation of the Federal judiciary, but also takes into consideration any potential increase in costs to the Federal budget.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1889. A bill to authorize the exchange of certain lands conveyed to the Kenai Native Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, and for other purposes; to the Committee on Energy and Natural Resources.

THE KENAI NATIVE ASSOCIATION EQUITY ACT

● Mr. MURKOWSKI. Mr. President, today I introduce the Kenai Native Association Equity Act. This legislation will correct a significant inequity in Federal law with respect to lands conveyed to the Kenai Natives Association [KNA] under the Alaska Native Claims Settlement Act [ANCSA]. This legislation, which will mark the final outcome of a process begun nearly 14 years ago.

The legislation directs the completion of a land exchange and acquisition package between the U.S. Fish and Wildlife Service [USFWS] and KNA. The legislation will allow KNA, for the first time, to make economic use of lands conveyed them under ANSCA. The final stage of this process began by directing in Public Law 102–458, a land exchange and acquisition package between the USFWS and KNA. Over the past year, negotiations were completed, resulting in the legislation I am introducing today.

Mr. President, unlike other corporations in ANCSA, KNA, as an urban corporation, was not entitled to receive monetary settlement or additional lands than those granted under ANCSA. KNA ultimately selected 19,000 of its 23,040 entitlement within what later became the Kenai National Wildlife Refuge. KNA lands are located between operating oilfields within the refuge to the North and urban and suburban developments to the South.

At the request of the USFWS, KNA officials chose lands along the boundaries of the refuge so that development would be allowed. Notwithstanding the representation that development would be allowed, the USFWS advised KNA after selections were made that use of the property would be severely restricted by the application of section 22(g) of ANCSA.

Section 22(g) requires that all uses of private inholdings within the refuge comply with the laws and regulations applicable to the public lands within a refuge and that those lands be managed consistent with the purpose for which the refuge was established. Section 22(g) has been an ongoing problem in Alaska as it has significantly limited the economic use of private lands within refuges.

Pursuant to agreements between USFWS and KNA, this legislation will allow USFWS to acquire three small parcels of land and KNA's remaining ANCSA entitlement at appraised value. These parcels include: Stephanka Tract, 803 acres on the Kenai River; Moose River Patented Tract, 1,243 acres; Moose River Selected Tract, 753 acres; and Remaining Entitlement, 454 acres.

The total habitat acquisition of 2,253 acres will be purchased with *Exxon Valdez* oilspill funds at a cost of $4,443,000. Therefore, there would be no cost to the Federal Government for the purchase of these lands. Refuge boundaries would be adjusted to remove 15,500 acres of KNA lands from the refuge, thus resolving the 22(g) conflict. This can be done because, although the property is within the refuge—it does not belong to the Federal Government. KNA would also receive the refuge headquarters site in downtown Kenai which consists of a building and a 5-acre parcel.

Under the terms of this agreement, the USFWS has proposed, in order to maintain equivalent natural resource protection for Federal resources, that Congress designate the Lake Todatonten area, approximately 37,000 acres, as a BLM Special Management Area [SMA]. The lake is adjacent to the Kanuti National Wildlife Refuge. The SMA would be subject to subsistence preferences under ANILCA and to valid existing rights. While I support the intent of this provision I do intend on exploring its implications on land use closely during Senate hearings before the Energy and Natural Resources Committee.

Mr. President, I believe the Kenai Native Association has waited long enough to resolve these issues. It is my intention to move this legislation quickly and get it behind us.●

By Mr. FAIRCLOTH (FOR HIMSELF, Mr. KENNEDY, Mr. HATCH, Mr. BIDEN, Mr. LOTT, Mr. DASCHLE, Mr. THURMOND, Mr. BYRD, Mr. WARNER, Mr. LEAHY, Mr. COCHRAN, Mr. HEFLIN, Mr. D'AMATO, Mr. JOHNSTON, Mr. GRAMM, Mr. BREAUX, Mr. FRIST, Ms. MOSELEY-BRAUN, Mr. LEVIN, Mr. SIMON, Mr. ROCKEFELLER, Mr. REID, Mr. DODD, Mr. GLENN, Mr. KERREY, Mr. KERRY, Mr. HARKIN, Mr. BRADLEY, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Mrs. BOXER, Mr. WYDEN, Mrs. HUTCHISON, Mr. COVERDELL and Mr. PRYOR):

S. 1890. A bill to increase Federal protection against arson and other destruction of places of religious worship.

THE CHURCH ARSON PROTECTION ACT OF 1996

Mr. FAIRCLOTH. Senator KENNEDY and I stand here today united in our belief that the rash of church arson must end and now. If we in Congress cannot agree that church burning is a despicable crime, what can we agree upon? It is not a matter of liberals, conservatives, blacks, or whites. It is about justice, faith, and right and wrong. Five of these churches—sadly, including a recent one on last Sunday night—were located in my home State of North Carolina.

I have every confidence that local law enforcement in my State can solve these crimes, but there is a real possibility that persons from outside of my State and other States may have set the fires, and that is the need for this bill and for Federal law enforcement assistance and a Federal statute. We have taken too long as a nation to react to this tragedy.

I do not know why the response has been so slow, nor do I fully understand if these crimes were the acts of conspirators or copycats.

What I do know is that we are sending a clear message today to anyone who is thinking about burning a church, that the wrath of the Federal Government will fall upon them. Scoundrels who burn churches have no refuge in our America on this day or any other day. They should and will be prosecuted and punished to the fullest extent of the law.

To that end, Senator KENNEDY and I have introduced this bill, full of both symbol and substance, to protect houses of worship.

Growing up and living in the rural South, I understand better than a lot of people that the church serves as a center of family life, of the community life, and in so many of these areas life is built around the church. Consequently, they hold in more ways than one a sacred place in the hearts of the people within that community. There is far more potential in these churches to cure what ails us as a nation than the Federal Government will ever possess. Let us renew our commitment with energy and conscience to protect the rights of all Americans without regard to race or religion.

Mr. KENNEDY. Mr. President, recently, the entire Nation has watched in horror and disbelief as an epidemic of terror has gripped the South. Events we all hoped were a relic of the past are now almost a daily occurrence. The wave of arsons primarily directed at African American churches is a reminder of some of the darkest moments in our history—when African-Americans were mired in a quicksand of racial injustice. We have come a long way from the era of Jim Crow, the Klan, and nightly lynchings. But these arsons are a chilling reminder of how far we have to go as a nation in rooting out racism.

In the 1960's, at a time when acts of violence against African-Americans were commonplace, when white freedom workers were being murdered by cowardly racists, Congress first began to speak vigorously and in a bipartisan fashion to condemn this violence and address the many faces of bigotry. Today, we again speak with a united voice in introducing bipartisan legislation to address this alarming recent epidemic of church burnings.

I commend my colleague from North Carolina, Senator FAIRCLOTH, for his leadership on the legislation we are introducing today. It is vitally important for the American people to recognize that all Americans—Democrats and Republicans, whites and nonwhites, Catholics, Protestants, Jews, and Muslims—must speak with a united voice in condemning and combating these outrageous acts. We must send the strongest possible signal that Congress intends to act swiftly and effectively to address this festering crisis.

President Clinton has also spoken eloquently on this issue, and has provided strong leadership. I applaud his efforts to commit substantial additional Federal resources to the investigations. Just as it was appropriate in the 1960's for the Federal Government to play an important role in reducing racial unrest, it is vitally important today for the Federal Government to take an active role in combating these racist arsons.

I also commend Congressmen HENRY HYDE and JOHN CONYERS, who developed the bipartisan House bill that was passed swiftly and unanimously yesterday, and I urge the Senate to act with similar swiftness.

There are four basic components to the Faircloth-Kennedy bill. First, it provides needed additional tools for Federal prosecutors to address violence against places of worship. The bill amends the primary Federal statute dealing with destruction of places of worship to make it easier to prosecute these cases. Current law contains onerous and unnecessary jurisdictional obstacles that have made this provision largely ineffective. In fact, despite the large number of incidents of destruction or desecration of places of religious worship in recent years, only one prosecution has been brought under this statute since its passage in 1988. Our bill will breathe life into this statute by removing these unnecessary obstacles.

In addition, our bill strengthens the penalty for church arson by conforming it with the penalties under the general Federal arson statute. By conforming the penalty provisions of these two statutes, the maximum potential penalty for church arson will double, from 10 years to 20 years. Our bill also extends the statute of limitations from 5 to 7 years, giving investigators needed additional time to solve these difficult crimes.

Giving prosecutors additional tools will enable them to address the current crisis more effectively. However, we must also deal with the aftermath of the arsons that have left so many needy communities without a place of worship. The bill contains an important provision granting the Department of Housing and Urban Development the authority to make loan guarantees to lenders who provide loans to places of worship that have been victimized by arson.

This provision does not require an additional appropriation of funds to HUD. It simply gives HUD authority to use funds it already has. These loan guarantees will serve an indispensable function to help expedite the rebuilding process and the healing process.

These arsons have placed an enormous burden on State and local law enforcement, who also must investigate the crimes and address the tense aftermath within their communities. Our bill contains two measures to assist State and local law enforcement and local communities in responding to these vicious crimes. The Department of the Treasury is authorized to hire additional ATF agents to assist in these investigations, and to train State and local law enforcement officers in arson investigations. ATF already trains 85 to 90 percent of local law enforcement in how to investigate arson. This authorization will facilitate needed additional training.

The bill also authorizes the Department of Justice to provide additional funds to the Community Relations Service, a small but vital mediation arm established by the Civil Rights Act of 1964. The mission of the Community Relations Service is to go into a community and reduce racial unrest through mediation and conciliation. The Community Relations Service has worked effectively to calm communities during some of the Nation's most difficult moments in the battle for racial justice, and it has earned the respect of law enforcement officials and community leaders nationwide.

In 1996, its budget was cut in half—from 10 million to $5 million. As a result, at a time when its services are in enormous demand, the Community Relations Service is about to be forced to lay off half of its already slim staff. This bill authorizes the restoration of funds to the Community Relations. We must act now, because its services are urgently needed.

Finally, the bill reauthorizes the Hate Crimes Statistics Act. This rash of arsons demonstrates the need to document all hate crimes nationwide. Reauthorizing the Hate Crimes Statistics Act is essential, and law enforcement groups, religious leaders, and civil rights leaders throughout the Nation strongly support it.

Taken together, this bill represents a sensible and practical response to the church arson crisis. We have a constitutional obligation to preserve the separation of church and state, but we also have a Federal obligation to protect the right of all Americans to worship freely without fear of violence. We believe this legislation is a timely and constructive step to stem the tide of violence in the South. If more can be done, we will do it.

In a larger sense, this tragic violence provides an opportunity for all Americans to examine our consciences on the issue of prejudice. We must work to root out racism and bigotry in every form. If we create a climate of intolerance, we encourage racist acts of destruction. While I respect and indeed cherish the first amendment right of free expression, we must be mindful that words have consequences. It is distressing that hate crimes are on the rise—whether arson of a church or assaults and murders because of bigotry. At other times in our history, we have been able to act together to heal a sudden or lingering sickness in our society, and we will do so now. The fundamental challenge is to re-commit ourselves as a Nation to the basic values of tolerance and mutual respect that are the Nation's greatest strengths.

The courage and faith demonstrated by the parishioners and clergy of the burned churches is an inspiration to the entire country. Their churches may have burned, but their spirit endures, and it is stronger than ever.

I also welcome the outpouring of generosity from numerous sources in the private sector. I commend the many individuals, businesses, congregations, and charitable organizations that have pledged financial support to rebuild the churches. These generous acts, as Martin Luther King once said, ''will enable us as a Nation to hew out of the mountain of despair a stone of hope.''

I urge my colleagues to join in expediting action on this urgent legislation. America is being tested, and the people are waiting for our answer.

Mr. President, this Faircloth-Kennedy bill addresses the recent spate of arsons that have gripped the South. The bill contains a number of measures designed to assist prosecutors and investigators in pursuit of the cowardly perpetrators of these crimes, and to assist victims and communities in the rebuilding process. This statement pertains to Congress' constitutional authority to amend the criminal provision pertaining to destruction of religious property and violent interference with right of free exercise of religious worship.

The bill amends title 18, United States Code, section 247 to make it easier for prosecutors to establish Federal violations in instances of destruction or desecration of places of religious worship. Although section 247 was passed in 1988, there has been only one Federal prosecution due to the onerous jurisdiction requirements contained in section 247(b).

The interstate commerce requirement of section 247(b)(1) is much greater than in other similar Federal statutes. For example, title 18, United States Code, section 844(i) is the general Federal arson statute and contains

a much lower interstate commerce threshold than is found in section 247(b)(1).

The $10,000 requirement of section 247(b)(2) is arbitrary and unnecessary, and does not reflect the serious nature of many bias motivated acts of violence against places of religious worship. For example, there have been a number of incidents of bias-motivated violence committed by skinheads against synagogues which involved firing gunshots into these sacred places of worship, or the desecration of solemn symbols or objects, such as a Torah.

The Justice Department is providing specific examples of the limitations of section 247 which it will present at a hearing scheduled for June 25, 1996 in the Judiciary Committee. The monetary damage amount in these incidents described above is minimal. Yet, the devastation caused by these crimes is enormous, and the Federal Government can and should play a role in prosecuting these heinous acts of desecration.

The Faircloth-Kennedy bill amends section 247 in a number of ways. Most importantly, the onerous jurisdictional requirements of section 247(b) are discarded in favor of a more sensible structure that will better enable prosecutors to pursue the cowardly perpetrators of these crimes.

Section 2 of the bill contains congressional findings that set out in explicit detail the constitutional authority of Congress to amend section 247. A hearing was conducted in the House of Representatives on May 21, 1996, and a hearing will be conducted in the Senate on June 25, 1996, in which substantial evidence has or will be presented to support these congressional findings.

Congress has three separate bases of constitutional authority for amending section 247. First, Congress has authority under section 2 of the 13th amendment to enact legislation that remedies conditions which amount to a badge or incident of slavery. The Supreme Court, in *Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 409 (1968), and *Griffin* v. *Breckenridge*, 403 U.S. 88 (1971), held that Congress has broad power under the 13th amendment to enact legislation that addresses societal problems of discrimination. In Griffin, the Supreme Court held that ''there has never been any doubt of the power of Congress to impose liability on private persons under section 2 of the th[e Thirteenth] Amendment.

The arsons that have occurred have been directed primarily at African-American churches. Although a number of the perpetrators have not been apprehended, it is clear from the statement of the Justice Department that a substantial number of the arsons were motivated by animus against African-Americans. Indeed, these events are a tragic reminder of a sad era in our Nation's history, when African-Americans were mired in a quicksand of racial injustice. As such, Congress has the authority under the 13th amendment to amend section 247, and to eliminate the interstate commerce requirement altogether.

Congress also has authority under the commerce clause to enact this legislation. As the record makes clear, the churches, synagogues, and mosques that have been the targets of arson and vandalism, serve many purposes. On Saturdays or Sundays, they are places of worship. During the rest of the week, they are centers of activity. A wide array of social services, such as inoculations, day care, aid to the homeless, are performed at these places of worship. People often register to vote, and vote at the neighborhood church or synagogue. Activities that attract people from a regional, interstate area often take place at these places of worship. There is ample evidence to establish that Congress is regulating an activity that has a ''substantial effect'' upon interstate commerce.

Mr. President, I would like to include as cosponsors of this legislation the Senator from West Virginia [Mr. BYRD]; the Senator from Connecticut [Mr. DODD]; and the Senator from Alabama [Mr. HEFLIN].

Mr. President, I ask unanimous consent the upcoming hearing on church arson currently scheduled for June 25, 1996 by the Judiciary Committee as well as excerpts of other statements submitted in the context of that hearing be made a part of the overall record pertaining to consideration of the Faircloth-Kennedy church arson prevention bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT OF STATEMENT OF DEVAL PATRICK, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, BEFORE THE COMMITTEE ON THE JUDICIARY, MAY 21, 1996

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear today to discuss the efforts of the Department of Justice to prosecute those individuals responsible for the deplorable act of setting fires to houses of worship and intimidating their parishioners.

Let me assure you all, first and foremost, that the Department of Justice considers investigation of church fires and prosecution of those persons responsible for attempting to destroy houses of worship to be among our most important investigative and prosecutorial priorities. Houses of worship have a special place in our society. They are, of course, the center of a community's spiritual life. In many communities, the church is the center of its social life as well. As we have seen in communities that are the subject of today's hearing, destruction of a church can have devastating effects.

When the fire is accompanied by an explicit or implied threat of violence directed at church members because of their race, these devastating effects are multiplied. In our society, arson of a church attended predominantly by African Americans carries a unique and menacing threat—that those individuals are physically vulnerable because of their race. These threats are intolerable; no one in our society should have to endure them. The Department of Justice is committed to insuring that those who make such threats will be prosecuted and will serve sentences commensurate with the cowardly and despicable nature of their actions.

I will provide a more general overview of federal prosecutorial activities.

FEDERAL JURISDICTION

There are a number of statutes that provide federal jurisdiction over arsons at churches.

We also have jurisdiction under 18 U.S.C. 247 and 248. Under 18 U.S.C. 247, anyone who ''intentionally defaces, damages, or destroys and religious real property, because of the religious charter of that property, or attempts to do so,'' through use of fire, has committed a felony. Subsection (b) of the statute states that the defendant must have traveled in interstate or foreign commerce, or used a ''facility or instrumentality of interstate or foreign commerce in interstate or foreign commerce'' in committing the crime, and caused more than $10,000 damage.

Section 844(h) of Title 18 applies when fire or an explosive is used to commit another crime, and section 844(i) of Title 18 prohibits the use of fire when destroying a building used in interstate or foreign commerce. Section 248(a)(3) of Title 18 makes it a crime to ''intentionally damage[] or destroy[] the property of a place of religious worship.'' As we discuss later, however, our ability to use 248 may be limited.

SUCCESSFUL PROSECUTIONS

Investigation of church fires is extremely challenging. Fire often destroys all of the relevant evidence. In addition to examining the evidence at the scene of the fire, many witnesses must be interviewed in order to get a lead, as there are seldom witnesses to an arson at a church, particularly churches located in rural areas, as many of these churches are. There are currently over 200 federal agents from the ATF and FBI assigned to the various fires we are investigating.

We have had successful federal prosecutions, and have secured sentences commensurate with the seriousness of these crimes. Two recent cases demonstrate the type of investigations and prosecutions that vindicate federal rights.

MAURY COUNTY, TENNESSEE

In January of 1995, two African American churches and an African American-owned tavern were burned. Local law enforcement investigated, and arrested three suspects, all of whom said the fires were the result of actions they took while intoxicated, and were intended only as a joke. The FBI also investigated, and determined that all three defendants spent a Sunday watching the Super Bowl, drinking, and discussing their hatred of African Americans. The discussion later turned specifically to ''burning nigger churches.'' After gathering various supplies, the defendants first drove to an adjoining county and tried to set fire to the tavern by throwing a molotov cocktail through the window. It failed to ignite. They also burned a cross on the tavern property. They then crossed back into Maury County and went to the Friendship Missionary Baptist Church, an African American church, and threw a railroad tie and molotov cocktail through the window. The fire ignited and caused heavy damage to the church. They also attached a small cross to the church sign and ignited it. They then drove to another African American church, the Canaan African Methodist Episcopal Church, again throwing a molotov cocktail into the church and causing damage, and again leaving a cross on church property.

The FBI obtained inculpatory statements and physical evidence, and identified other persons who later testified before the grand jury concerning the defendants' intent to burn African American churches. Attorneys from the United States Attorney's Office for

the Middle District of Tennessee, as well as from the Criminal Section of the Civil Rights Division, participated in the Federal prosecution of these three defendants. They also met often with local church officials, not only to keep them apprised of the developments in the Federal prosecution, but also to discuss with them the impact of this attack on the members of the church.

The defendants were arrested in August of 1995 on Federal charges of violating 18 U.S.C. 241 by conspiring to set fire to the two African American churches and the tavern. They pled guilty to the Federal charges in October of 1995. Two of the defendants were sentenced to 33 months in Federal prison, and the third to 57 months, for this hate crime.

One reason we decided to proceed with a Federal prosecution was that because the tavern firebombing occurred in another county, trial in State court would have required separate State indictments and resulted in the juries in each case seeing only part of the overall crime. The Federal conspiracy charge permitted the full scope and nature of the crime to be presented in one prosecution, and provided certain evidentiary advantages, such as the admissibility of co-conspirator statements. In addition, the sentences these defendants would have received under local law were much less than Federal law would permit. The Federal sentencing guidelines permitted the court to tailor sentences which reflected the culpability and subsequent cooperation and acceptance of responsibility by the defendants. The Government was able successfully to argue at sentencing that the leader of three defendants deserved an enhanced sentence. The Federal investigation also revealed that the local firefighters who responded to the first church burning were placed at a substantial risk of death or serious bodily injury by the fire, which also persuaded the court to impose an enhanced sentence. The decision to proceed against these defendants in Federal court and on Federal charges resulted in sentences that fit the contemptible nature of their actions and the effect of those actions on the members of the churches they attempted to destroy.

PIKE COUNTY, MISSISSIPPI

On April 5, 1993, on the 25th anniversary of the death of Rev. Martin Luther King, Jr., two African American churches in rural southern Mississippi burned to the ground. The FBI, with some cooperation by the local sheriff's department, took the lead in the investigation and identified three suspects, one adult and two juveniles. The Bureau contacted the father of one suspect, and met with the suspect, his father and his attorney. Later the Bureau agent and a lawyer from the criminal Section of the Civil Rights Division met with another suspect and the suspect's parents. The suspects admitted setting fire to the churches. The churches were chosen because they were African American churches, and the suspects admitted making racially derogatory remarks such as ''Burn Nigger Burn'' and ''that will teach you Niggers'' when setting the fires.

These fires were set in an area of Mississippi with a disturbing and violent racial past. This prosecution sent a strong message that this sort of violence will not be tolerated. A thorough six month investigation was done, followed by grand jury testimony. On October 1, 1993, all three participants pled guilty to violating 18 U.S.C. 241. Two defendants were sentenced to 37 months in Federal prison and one to 46 months.

These are two instances of successful Federal investigation and prosecution of hate crimes involving the burning of African American churches. Other fires have been investigated jointly with State and local authorities. Some of these have resulted in State convictions and lengthy sentences.

INCREASE IN REPORTS OF CHURCH FIRES

We have found a disturbing increase in the number of fires at churches reported to the Justice Department over the past two years. As of May 1, 1996—only four months into the year—we had received reports of fires at 24 churches, seventeen of which occurred at churches in which the membership is predominantly African American. During 1995, we received reports of fires at 13 churches, and reports of acts of vandalism at three churches that did not involve fires. Eleven of the fires that occurred in 1995 were at African American churches. From 1990 through 1994, we received and investigated reports of fires at only 7 houses of worship, 6 of which were at African American churches, and acts of vandalism at 5 synagogues.

This pattern of church fires has not been limited to one region of the country. The reports of church fires occurring in 1996 have come from Alabama, Georgia, Louisiana, Mississippi, Tennessee, Virginia, South Carolina, and Texas in the southern United States, and also from Arizona, Maryland, and New Jersey. In 1995, we investigated church fires that occurred in Alabama, North and South Carolina, and Tennessee, and also one that occurred at an African American church in Washington state.

Nearly one-quarter of the cases reported to us in 1995 and 1996 have been resolved. Of the 24 fires reported to us as of May 1 of this year, arrests have been made in two cases, and one has been determined to have been accidental. The rest remain under active federal investigation, and we are hopeful that we can bring some to conclusion soon. Of the 13 fires and 3 incidents of vandalism occurring in 1995, 10 remain under active federal investigation. Two investigations have been closed after successful federal prosecution, and one fire was determined to be accidental. Arrests have been made in two of the incidents still under active investigation. The three incidents of vandalism at churches in Alabama were resolved through local prosecution.

We have taken a number of steps to encourage local law enforcement personnel throughout the country and others to contact the FBI and ATF whenever a fire appears suspicious. We have also spoken to church and civil rights leaders in many areas to encourage them to get the word out to their parishioners and members that fires and acts of vandalism at houses of worship are of serious federal concern, and that they should quickly report these incidents to both local and federal officials.

I recently went to Boligee, Alabama, to visit the sites of recent church arsons and to meet with local law enforcement officials as well as officials of the damaged churches. I spoke both of the high priority these cases have in the Department of Justice, and of our need for a close relationship with local law enforcement and local citizens regarding these kinds of actions. I was heartened by the reception I was given by local church officials, and I hope they, and other church members and other citizens around the country fully understand the Department's commitment. I know that Assistant Secretary James Johnson from the Department of the Treasury has also made a number of visits to churches around the country victimized by suspicious fires, and has explained the manner in which the federal government is responding to these fires.

I am sure that local church and community members are as frustrated as we are by those instances in which church fires are not yet solved. I certainly hope that those same officials and citizens understand that we are actively investigating these fires, and doing whatever we can to determine what happened and to make arrests where criminal activity occurred. It is important to remember that arsons are among the most difficult crimes to solve. Fire often destroys important evidence. Some of these fires were set at churches located in rural, isolated areas, and for that reason the fires at some were extensive. In some instances, churches burned to the ground. It is not yet clear whether the increase in the number of fires reported to us reflects an increase in the number of fires that have occurred, or reflects an increase in reporting. As I stated earlier, we have actively encouraged local citizens and law enforcement officials to report all fires at houses of worship to federal officials, and recent publicity about some church fires may have encouraged the reporting of others.

It is clear, however, from some of the cases that have been solved, that some of the people who have set fires at houses of worship are motivated by hate. Most of the other cases are still under investigation. As you know, I cannot discuss specifics of any open case. I can say, however, that during our investigation we focus not only on the circumstances of the specific fire before us, but also on whether, if we identify an individual or individuals responsible for the fire, there is any evidence that these individuals have any ties to fires that have occurred elsewhere in the country. Because these investigations are ongoing, it is premature to draw conclusions one way or the other as to whether the fires we are seeing are part of an organized hate movement.

DIFFICULTIES WITH FEDERAL JURISDICTION

While I mentioned the Federal statutes that give us jurisdiction over some fires and acts of vandalism at houses of worship, using those statutes does present some difficulties.

18 U.S.C. 241 applies when we have two or more defendants acting in a conspiracy. While we can get significant jail sentences under section 241, we can use section 241 only when we have a conspiracy of two or more persons. When we do not have two or more individuals involved in the fire, section 241 is not available.

When we are left with only one suspect, our jurisdiction is provided by 18 U.S.C. sections 247 or 248. Prosecutions under section 247 are complicated significantly by the fact that subsection (b) of the statute states that the defendant must have traveled in interstate or foreign commerce, or used a ''facility or instrumentality of interstate or foreign commerce in interstate or foreign commerce'' in committing the crime, and caused more than $10,000 damage. These provisions make this statute nearly impossible to use. The $10,000 requirement means that when the damage from the fire is minimal, or when hate is expressed, not through fire but through desecration or defacement of houses of worship, 18 U.S.C. 247 is not an available source of jurisdiction. In those cases, the message of hate is just as clear, and the effect on the victims often just as palpable and disturbing, but an important law enforcement tool is not available.

18 U.S.C. 248(a)(3) also provides Federal jurisdiction in church arsons. While that section could be a useful tool to address this problem, we believe that the Supreme Court's recent decision in *United States* v. *Lopez*, 115 S.Ct. 1624 (1995), may make use of that provision more difficult.

Section 844(h) of title 18 applies when fire or an explosive is used to commit another crime, and section 844(i) of title 18 prohibits the use of fire when destroying a building used in interstate or foreign commerce. Their utility is limited, however, where no other crime is present, or the interstate commerce nexus is not met.

CONCLUSION

The Clinton Administration is determined to address this problem using all the law enforcement and investigative tools available, working cooperatively with our Federal as well as State and local law enforcement. Solving these crimes, and punishing those responsible, remains a high priority for this Administration.

STATEMENT BY THE REV. DR. JOSEPH E. LOWERY, PRESIDENT, SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE, CHAIRMAN, BLACK LEADERSHIP FORUM, INC., TO THE JUDICIARY COMMITTEE, TUESDAY, MAY 21, 1996

Mr. Chairman, and Members of the Judiciary Committee, the Department of Justice through the Assistant Attorney General, Civil Rights Division, has advised us that (as of April 24, 1996) they have investigated ''fires and incidents of desecration'' at 46 different houses of worship in 15 States . . . since 1990.

Of the 46 incidents listed, 29 remain unsolved. So far in 1996, 25 incidents have been reported, and 23 remain unsolved.

We have been outraged at these continuing attacks on places of worship—and sorely disappointed that until recently law enforcement in particular, as well as government and media in general—have seemed only mildly interested in focusing on these acts of terrorism. Scant notice was given by national media until a church where the assistant pastor was a well known professional football star—was torched.

In late 1995, SCLC intensified its protest and plea to law enforcement agencies to unleash all available resources to bring these criminals to justice.

In early 1996 we visited the sites of burned churches in Alabama and Louisiana. Subsequently, Asst. Atty. Gen. Deval Patrick visited our offices in Atlanta to assure us that the investigation of these fires would be given top priority. An official in the enforcement division of the Treasury Department (ATF) also called and informed us that a Joint Task Force with the Justice Dept.—consisting of approximately 100 persons—had been assigned to the investigation. We were advised that two of the officers originally assigned to the Task Force had been removed after it was discovered that they had been among ATF agents who attended a Good Ol' Boy Roundup, where shameful racist activities took place. It is our understanding that none of the agents who frequented these ''Roundups'' has been dismissed or severely disciplined. African Americans are concerned that many law enforcement agencies include personnel who are also members of racist groups.

We are not surprised at this feeble response to racist behavior—for like the national response to these church burnings, it represents a fifty-first state in the nation—''the state of denial''. While we have been shocked as a nation at the rise of hate groups and right-wing terrorists that have bombed federal buildings, and militia groups that pose serious threats to democracy, we have downsized the racist nature of these groups. History, however, is clear that hate mongers in this nation are usually integrated with white supremacists, anti-Semites, and neo-Nazis. They are usually gun addicts and are heavily armed with assault weapons.

Is it any wonder that we are outraged that law enforcement agencies insist on denying the racist nature of these attacks on the soul of the Black community—our churches?

A few days ago a gang of white teenagers in Ft. Myers, Florida—known as ''Lords of Chaos''—shot and killed a high school band director who uncovered their mayhem. This gang of white teens—from affluent homes (some of whom were honor students)—had burned a soft drink warehouse, a restaurant with exotic birds; had burned property of a Baptist church and were on their way to attack Disney World with assault weapons. What the media have hardly mentioned is that their plans included a shooting spree against Black tourists following the attack on Disney.

We are witnessing a frightening and serious assault on African Americans in this nation, in the judicial and legislative suites—as well as in the streets. One hundred years ago, around the time of Plessy vs. Ferguson (separate but equal) African Americans were stripped of political power and our properties including churches were burned. One hundred years later the ghost of Plessy vs. Ferguson and the forces that ended reconstruction are haunting the nation. Our children are cast into inferior courses by ''tracking'' and other forms of miseducation and denial of justice and equal opportunity in education. Our voting rights are being devastated by federal judges who hold the sacred rulings of their predecessors in contempt. Equal opportunities in employment and economic enterprise are imperiled by the assault on affirmative action. The rhetoric around welfare reform suggests that welfare recipients are black, lazy, dishonest, and need to be penalized for being poor. It is soundly perceived and believed that efforts to balance the budget are totally insensitive to the needs of the poor and elderly—and that the budget should be balanced on the backs of the poor. So-called angry white males are concerned that affirmative action, the Federal government, and welfare recipients are their enemies and are responsible for their economic uncertainties. These misconceptions are fomented by the rhetoric and policies of extremists in both the public and private sector.

While we continue to call for intensive and massive efforts by law enforcement to bring these criminals to justice, we recognize that concomitantly, we must: (1) recognize the widening impact of anti-Black, anti-poor policies, in creating attitudes of hostility that can translate into acts of hostility; (2) we must hold accountable the extremist groups that fan flames of racial and class divisions.

We would strongly urge the Congress of these United States to:

1. Call for a massive, intense effort on the part of the FBI, and the entire law enforcement contingency of the United States government to bring to justice those who committed these crimes.

2. Commend, support and encourage the ministers, congregations and communities that refuse to be intimidated by these cowardly acts of terrorism. The message must be loud and clear that the African American community will not be intimidated in 1996 any more than we were in 1896, 1963 or any other time. These attacks stiffen our resistance to oppression and render firm our resolve in the pursuit of justice and equity.

We respectfully urge this committee and the Congress to remember the history of fire bombing of churches in our community. While no life has been lost, we recall with deep pain and sorrow the murder of four little girls in Sunday school in a church in Birmingham, Alabama. These criminals must be stopped before such tragedies recur.

3. We respectfully urge the committee and the Congress to seek ways and means of addressing the economic distress, the loss of jobs, the growing fears and uncertainties about the future in ways that do not make African Americans, Hispanics, women, and low income persons—scapegoats.

We urge the Congress to engage in a positive campaign to achieve racial justice and an end to political, judicial, economic and street violence.

We believe that an intelligence system and advanced criminological technology that can identify terrorists in faraway lands, and in New York and Oklahoma, ought to be able to apprehend angry arsonists who burn churches.

Finally, some religious extremists have offered rewards for the culprits and challenged civil rights groups to match the reward monies.

We believe the religious community could better serve the common good by engaging in joint efforts to eliminate the climate of hostility which encourages acts of hostility. We are willing to work together for social justice, the beloved community, and an end to economic, political, judicial and physical violence.

EXCERPTS OF TESTIMONY OF JOHN W. MAGAW, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, BEFORE THE COMMITTEE ON THE JUDICIARY, MAY 21, 1996

Thank you, Mr. Chairman, Mr. Conyers, and members of the Committee, for providing this forum to discuss the Federal response to the recent series of church fires, predominately African-American, that have occurred in the Southeastern United States. The Bureau of Alcohol, Tobacco and Firearms is the arson investigative agency of the Federal government, and we bring unparalleled expertise to fire investigations. Today, I'd like to highlight ATF's role in working with State and local fire and police authorities, the Federal Bureau of Investigation, and the Civil Rights Division of the Department of Justice in investigating these fires. The burning of churches is a particularly heinous crime because those who would attack our churches seek to strike at our most fundamental liberties and sources of personal support. African-American churches historically have served as places of sanctuary, centers of the community, and symbols of freedom. ATF is committed to fully applying all of our investigative resources to determine the cause of these fires and arrest those responsible for the arsons.

Although ATF has dedicated a tremendous amount of resources to investigating this unusual increase in the number of church fires, church fires are not necessarily a new phenomenon. According to statistics compiled by the National Fire Data Center (NFDC) in the U.S. Fire Administration, 179 church fires were reported in 1994. The NFDC estimates that the statistics represent half of the actual number of fires which occur each year. ATF has investigated 135 church fires across the United States since October 1, 1991. However, as depicted in the displayed pie chart, all church fires that ATF initially investigates are not determined to be arsons.

CURRENT CHURCH FIRE INVESTIGATIONS

Since January 1995, ATF has conducted more than 2,600 fire investigations. During this same period, ATF has conducted 51 church fire investigations. Twenty-five of these investigations are arsons which occurred at predominately African-American churches in the Southeast. These include six in Tennessee: five each in Louisiana and South Carolina; four in Alabama; three in Mississippi; and one each in Virginia and Georgia. These locations are reflected in the displayed map chart. As you know, these investigations are ongoing and, therefore, I am unable to go into detail about the specifics of these fires. I can tell you that, as of May 15, 1996, there have been two individuals arrested in connection with fires in Williamsburg County and Manning, South Carolina. In addition, there have been three arrests in Lexington County, South Carolina; one arrest in Tyler, Alabama; and another in

Satartia, Mississippi. I am confident that we will make additional arrests in the near future.

The concentration of arsons at African-American churches, depicted on the line chart, raises the obvious possibility of race/hate-based motives. The proximity in time and geographic region indicates the possibility that some of the fires are connected. Because of the potential of racial motives, and the possibility that some fires may be connected, there has been an extraordinary degree of coordination of the various investigations. We are always aware of the possibility that evidence and information developed in one investigation might provide valuable leads in another. While the targets, timing, and locations of the arsons have resulted in heightened attention to race/hate-based motives and possible connections, ATF must also examine all other possible motives for the fires. Motives can range from blatant racially motivated crimes to financial profit to simply personal revenge or vandalism. In any event, the motive in one arson does not automatically speak to the motive in another arson or series of arsons. A conspiracy was uncovered involving at least two fires in South Carolina. We have not yet found any evidence of an interstate or national conspiracy, but until our work is done no motive or suspect will be eliminated.

The Bureau of Alcohol, Tobacco and Firearms (ATF) is the arson investigative agency of the Federal government and we bring unparalleled expertise to fire investigations. AFT derives its authority to investigate arson incidents, in part, from 18 U.S.C. Section 844(i) which makes it a Federal crime to use explosives or fire to destroy property affecting interstate commerce. The legislative history of this law makes it clear that Congress intended it to cover churches and synagogues. The interstate nexus generally flows from national or international affiliations that involve the movement of funds, property, and other support services across State boundaries.

Since January 1995, ATF has conducted more than 2,600 fire investigations. During this same period, ATF has conducted 51 church fire investigations. Twenty-five of these investigations are arsons which occurred at predominately African-American churches in the Southeast. We are working in concert with over 20 State and local law enforcement and fire agencies, as well as with the FBI, the Civil Rights Division of the Department of Justice, U.S. Attorneys' offices, and local prosecutors. We have committed virtually every arson investigative resource at our disposal to the investigation of the African-American church fires. Approximately 100 ATF special agents have been assigned to the active investigations in the Southeast. We have employed all of ATF's investigative resources, such as our National Response Teams, Certified Fire Investigators, and ATF-trained accelerant detecting canines to help process the crime scenes.

Because of the potential of racial motives, and the possibility that some fires may be connected, there has been an extraordinary degree of coordination of the various investigations. A conspiracy was uncovered involving at least two fires in South Carolina. We have not found any evidence so far of an interstate or national conspiracy, but until our work is done no motive or suspect will be eliminated. African-American churches have served as places of sanctuary, centers of the community, and symbols of freedom. We will continue to vigorously pursue all investigative leads to solve these arsons and remove the fear.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a section-by-section analysis of the legislation be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

FAIRCLOTH-KENNEDY CHURCH ARSON PREVENTION ACT

Section One: Short Title: This section notes that the bill may be cited as ''The Church Arson Prevention Act of 1996.''

1. Sections Two and Three: Amendment to Federal Criminal Code.—Title 18, United States Code, Section 247, is one of the principal federal statutes addressing destruction of religious property. Since its passage in 1988, this provision has been used once by federal prosecutors, despite the hundreds of incidents of destruction or desecration of religious property. (The one case involved the murder of a cult member by another cult member.) The reason prosecutors do not use the statute is because it contains jurisdictional requirements that, as a practical matter, have been impossible to meet.

Specifically, section 247(b) contains a very high interstate commerce requirement, a requirement that is not constitutionally mandated, even after *Lopez*. The level of interstate commerce required under section 247(b) is much higher than is required in other similar federal statutes, such as the arson statute.

In addition, in cases of destruction of religious property, there is a requirement that the damage exceed $10,000. The monetary requirement is arbitrary, and does not reflect the seriousness of many crimes. For example, there have been a number of very serious cases involving skinheads firing gunshots into synagogues that could not be prosecuted under this statute because the damage did not exceed $10,000.

The upshot of these two requirements is that section 247 is essentially useless because prosecutors cannot meet the unduly onerous jurisdictional requirements. The attached bill (Section 3) addresses this problem by eliminating these unworkable jurisdictional requirements and replacing them with a more sensible scheme that will expand the scope of a prosecutor's ability to prosecute religious violence under section 247. The monetary requirement is eliminated altogether, and the interstate commerce requirement is replaced by a much more workable framework that will enable prosecutors to prosecute church arsons, as well as other serious acts of religious violence, under this statute. The House bill contains a very similar provision, and the Administration supports this approach.

The Senate bill pertaining to section 247 contains two additional features that are not contained in the House bill. First, the Senate bill conforms the penalty provisions of section 247 so that they are identical to the general federal arson statute. Presently, if a defendant is prosecuted under the federal arson statute for the arson of a building in which nobody is injured, he faces a maximum possible penalty of 20 years. However, if that same person burns down a place of religious worship, and is prosecuted under section 247, the maximum possible penalty is 10 years. Similarly, the statute of limitations for prosecutions under the general federal arson statute is seven years, while it is only five years under section 247. The Senate bill corrects these anomalies by conforming these provisions of section 247 to the provisions of the federal arson statute.

The Senate bill (Section 2) also contains the requisite Congressional findings that enable Congress to amend section 247. These findings, in conjunction with the extensive factual record that is being generated, are intended to ensure that the bill withstands constitutional scrutiny.

2. Section 4: Loan Guarantees—The Senate bill contains a provision intended to assist victims in seeking to rebuild without running afoul of First Amendment establishment clause concerns. Under this provision. HUD will have the authority to use up to $5,000,000 from an existing fund to extend loan guarantees to financial institutions who make loans to 501(c)(3) organizations that have been damaged as a result of an act of terrorism or arson. This provision does not require an appropriation of additional funds to HUD. It will simply give HUD the authority to use already existing funds in a new manner. The financial benefit derives primarily to the financial institution, which now has the ability to make certain loans that it might now otherwise have considered. The House bill does not contain this provision.

3. Section 5: Additional Resources to ATF—ATF trains approximately 85-90% of state and local law enforcement in how to investigate suspicious fires. It has been very difficult for state and local enforcement to keep pace with the recent spate of arsons. As a result, ATF has played a prominent role in these investigations. The bill contains authorization language (Section 5) for ATF to add investigators and technical support personnel to participate in these investigations, and to train state and local law enforcement with the necessary arson investigation skills to enable them to conduct these difficult investigations. The House bill does not contain this provision.

4. Section 5: Additional Resources to Community Relations Service—The Community Relations Service is the mediation/conciliation arm of the Justice Department that was created as part of the Civil Rights Act of 1964. Its mission is to go out in the community to quell racial unrest through mediation and conciliation. From working in Memphis following the death of Martin Luther King to working in Los Angeles during the Rodney King riots, the Community Relations Service has worked to calm communities during our nation's most tense moments. CRS focuses on non-litigation approaches to problem solving, and has earned the respect of police chiefs and community leaders across the country.

In an unfortunate development, CRS had its budget cut in half (10 million to 5 million) during the 1996 appropriation cycle. Consequently, effective June 22nd, at a time when their services are in great demand, CRS will be forced to lay off almost half its staff, unless they get additional money. Section 5 of the bill contains authorization language for CRS to receive such sums as are necessary to perform these essential services. It is Senator Kennedy's hope that CRS ultimately will be funded at 1995 levels. The House bill does not contain this provision.

5. Section 6: Reauthorization of the Hate Crimes Statistics Act—Newspaper reports give differing accounts of the number of church fires that have occurred over the past two years. The inability to document the number of such incidents points to the need to reauthorize the Hate Crimes Statistics Act permanently.

Section 7 contains a provision permanently reauthorizing the Hate Crimes Statistics

Act. Although the Senate has already passed a separate bill reauthorizing the HCSA, the House has not acted. Given the paucity of time remaining in this legislative term, it is imperative to pass the HCSA reauthorization as soon as possible. As a result, it has been included in the Senate bill.

If you have any questions, feel free to contact me at 224–4031. I hope your Senator will consider co-sponsoring this proposal so that the Senate can send a strong message to the American public on this pressing issue.

6. Section 7: Sense of the Senate—Section 7 is a sense of the Senate resolution commending individuals and entities who have assisted financially, or offered to assist financially, in the rebuilding process. This resolution encourages the private section to continue these efforts.

7. Section 8: Severability Provision.—This clarifies the severability of all provisions of this bill.

Mr. KENNEDY. I think I have 2 minutes left. I yield 2 minutes to the Senator from Alabama for his comments.

Mr. THURMOND. Mr. President, may I make an inquiry? Am I listed on that bill as cosponsor? I just want to find out.

Mr. KENNEDY. Senator FAIRCLOTH, I think, is indicating in the affirmative, Senator.

Mr. FAIRCLOTH. Yes, the ones so far are Senator LOTT, Senator THURMOND, Senator WARNER, Senator D'AMATO, Senator GRAMM, Senator Frist, and Senator COCHRAN. There are several others, and many more who are going to sign on, but you are listed, Senator THURMOND.

Mr. KENNEDY. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes, 30 seconds.

Mr. KENNEDY. I yield 2 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, we recently awoke once again to disturbing news that has become all-too-commonplace. We were told that during the night, additional southern black churches had been burned. These recent church burnings came amidst heightened national concern over the epidemic of such episodes throughout the South. As each fire is reported, we cling to the hope that what we will hear is that it was the result of an accident and not the work of some demented arsonist. The evidence, however, points away from the accidental fire.

As these hateful incidents continue to occur with alarming regularity, we are reminded of some of the most terrible moments of the civil rights struggle of the 1960's. Then, homes, businesses, churches, and other property was set afire in the dark of the night by those who wanted to preserve the existing social order. Their goal was to intimidate and frighten those working legally for the causes of equality and integration.

To those of us who remember those dark days and who applaud the progress which has been made in our society since then in terms of race relations, these current images of fires at churches in the early hours before dawn are profoundly disturbing and disconcerting. This is not supposed to happen in this day and age, not in the South or anywhere in this country.

Such incidents remind us that such hatred is alive in the United States of America and it is directed today at the very heart of these small, rural black communities. We ask ourselves who would hate a group enough to burn its church, the spiritual and social center of the community. The forces of evil are intentionally striking at the very soul of these communities by destroying their most sacred and powerful symbols.

Last week, the President said:

''This country was founded on the premise of religious liberty. It's how we got started * * * It is the cruelest of all ironies that an expression of bigotry in America that would sweep this country is one that involves trashing religious liberty.

Most would agree that one of the most logical institutions or symbols for bringing different people together would be a house of worship. What better venue could there be for transcending social and cultural division than the spiritual setting provided by a church?

These fires are far more than an expression of religious bigotry. The fact that these small churches are so much more to the community than simply places of worship makes the expressions of hatred even more egregious. They go beyond religion to the very essence of racial hatred. We have to ask ourselves what kind of hatred could possibly motivate individuals to destroy these symbols of a community in such a despicable manner.

As the Government searches for ways to address this epidemic, including the legislative efforts which I strongly support, we have to look at the twin possibilities of a conspiracy and the work of copycat arsonists. If it is a conspiracy, the work of one isolated group or groups fanning their hatred across the South, then our task is to find the perpetrators and prosecute them to the fullest extent of the law. Some of the evidence points to a conspiracy, such as the timing of the fires—they have all occurred in the very early hours of the morning, before day-light. As disturbing as it would be, it would be better for us as a country if the fires are the result of a conspiracy, the work of one group of individuals that does not reflect the current sentiment in this region of the country.

If, on the other hand, they are the result of copycats, which is more likely the case, then we are dealing with a societal disease. Addressing such a societal ill is far more difficult and requires a much different response that goes beyond basic law enforcement. At the same time, it provides us with an opportunity to reevaluate race relations in this country and to seek new ways to improve them. As these tragic fires illustrate, some remedial attention with regard to continued progress in race relations is needed.

There are some ways in which communities can be brought together because of these fires. White churches should invite their black neighbors who have lost their places of worship to come and worship with them. Black and white churches should come together in forming watches to prevent these attacks in the future. Ministers—black and white—should speak forcefully about racial equality and of the importance of honoring houses of God and keeping them sacred.

These rather small but commonsense acts of neighborliness and spiritual leadership could direct more attention on where we are in terms of racial attitudes and relations. It is sad that with all the progress we have made over the last few decades, these kinds of terrorist acts still occur. Throughout my career, I have striven to promote racial harmony in my State and throughout the Nation. I am proud of the progress we have made. But, as my time in the Senate draws to a close, I am, frankly, quite disheartened that these kinds of incidents are again plaguing our society.

While we do all in our power possible to stop these hate crimes, bring their perpetrators to justice, and encourage compliance with the law, we should also ask ourselves if there is more we can do as individual communities to advance the causes of equal rights and racial harmony. So, Mr. President, I support the Faircloth-Kennedy bill. I think it is an improvement over the House bill. A lot of work has gone into this. I think it approaches the situation with an investigatory device, to try to enhance the right of the FBI to investigate these terrible acts that are occurring throughout our Nation.

Senator PRYOR has asked me to add his name to this. I am sure there will be others. I ask unanimous consent the cosponsors' names be allowed to be entered for a period of time following this.

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

Mr. HEFLIN. Mr. President, I also see this as an opportunity to bring further improvement in regard to race relations. Yesterday I spoke with a group of Methodist ministers. I told them this was an opportunity to extend a hand of friendship to the black members of churches that were destroyed, to endeavor to try to work with them to improve their lot in the agony they are suffering today. I think this is an opportunity.

I do not know whether this is a conspiracy or whether it is a copycat situation. If it is a conspiracy, we should root out the perpetrators of this and punish them. If it is a copycat situation, then we have to try to work to remove the root cause.

So, it is something I think the American people ought to be aware of, and that they ought to do everything they can to address these crimes.

I fully support this bill.

Mr. KENNEDY. Mr. President, I yield the remainder of our time.

Mr. FAIRCLOTH. Mr. President, any time I have remaining I also yield back.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, the Senator from Massachusetts and the Senator from North Carolina, have they completed their remarks and the introduction of their bill?

Mr. KENNEDY. I thank the Chair and ranking minority member for yielding for this purpose. We yield back our time.

Mr. NUNN. I congratulate both Senators on taking this step. I think there is nothing that is so discouraging and heartbreaking than to see the burnings that have taken place of churches across much of our country.

I congratulate both the Senator from Massachusetts and the Senator from North Carolina. Maybe we can get unanimous support for denouncing this unexplainable and detestable series of acts. Whatever the cause, I think the message should go out that the U.S. Senate is firmly on record, both sides of the aisle, every political philosophy, deploring this kind of conduct.

So I congratulate both Senators for introducing this bill. I know it will receive prompt and careful consideration by the Senate and the respective committees.

Ms. MIKULSKI. Mr. President, I rise today to voice my strong condemnation of the rash of church burnings that have swept through the South. This is a national crisis.

These acts of terrorism, which are aimed solely at predominately black churches, strike at the very heart of what is sacred in our country—the right to freedom of religion and fundamental civil rights. Churches, mosques, temples, and synagogues are sanctuaries where Americans enjoy the freedom to worship. That is why these acts are truly repugnant, and I am outraged that the arsons continue.

Yesterday the Senate passed unanimously a resolution expressing our horror at these repugnant acts, and calling for rigorous investigation and prosecution of these crimes. I was proud to be a cosponsor of that resolution.

But we can and must do more. That is why I am cosponsoring the bill introduced by my colleagues, Senators KENNEDY and FAIRCLOTH, that will make it easier for the Federal Government to investigate and prosecute crimes involving the intentional destruction of churches.

Our Nation has made tremendous progress since the civil rights movement in the 1960's. Church burnings turn the clock back on the strides we have made since the 1960's and bring shame to our great Nation. Our Nation cannot tolerate the increasing number of black church arsons. The burnings have reached epidemic proportions.

It is a painful reminder of a time when hate and ignorance prevailed in many parts of the country. The perpetrators of these crimes must be caught and punished. They must know that our Nation will not tolerate or encourage these cowardly acts. Citizens around the country are outraged that places of worship—mostly in small Southern towns—are being burned to the ground. Many of the churches are historic landmarks. Some were erected over 100 years ago.

Black churches are the lifeblood in small Southern communities—by burning these churches the arsonists strike at the very heart of the black community. But, all of us who worship and believe in God are hurt by these church burnings; they strike everyone.

Faith built our country. We must begin building bridges to destroy the plague of racism. It is the basis of our Constitution that everyone has the freedom to worship wherever they please. These fundamental freedoms must be protected from those who would like to bully and intimidate peaceful, worshiping citizens.

Nearly 40 churches have burned since the beginning of the year. This is the worst kind of terrorism. It is reminiscent of a time when the Ku Klux Klan and other hate groups felt free to burn crosses, lynch innocent blacks, and burn churches. The current wave of church burnings has targeted remote, isolated places of worship in Southern black communities. These arsonists sneak into the night to torch churches falsely believing they will not be caught. We must not let these arsonists continue to commit their acts without being punished.

Our country will not tolerate this kind of moral outrage and shame. Federal prosecutors should be able to investigate and prosecute these criminals to the fullest extent allowed by law. Federal prosecution of those who are responsible for these fires at churches should be the highest national priority. We need to have the resources to go after these criminals; a civilized society cannot continue to have churches being burned to the ground every other day.

It is encouraging that my Senate colleagues in a bipartisan fashion have come together to condemn the church burnings. This is an issue that crosses all racial and party lines. We need to begin rebuilding—the churches across the South and the moral fabric of our country.

We must do all that we can to bring these criminals to justice. We are all the victims of the rash of church burnings in our country.

I urge my colleagues to support the Kennedy-Faircloth bill. The legislation will give law enforcement officials the tools they need to stop this terrible epidemic.

We must come together to begin healing the racial wounds caused by the church fires. Racism and hatred have no place in our country.

Mr. KERRY. Mr. President, I join my colleagues to express concern and outrage at the dastardly acts of hatred and violence against black churches, against good and decent people, people of faith with a strong sense of community. This legislation is a bipartisan statement that the United States Senate is determined to bring this outrage to a halt.

Make no mistake, those who have set these churches ablaze have rekindled our desire to stamp out bigotry and prejudice everywhere. There was a time in America, not long ago, when many of us were involved in the Civil Rights movement with men and women of good will—white and black—who demonstrated and marched for equal rights and justice in the face of the worst kind of violence, hatred, and bigotry. Black churches had long been a refuge from prejudice and served as the symbol of community for millions of Americans who were the victims of blind intolerance that raged throughout this country.

We cannot and must not let the hatred and ignorance of a few criminals, arsonists, separatists, or supremacists turn back the clock on the progress we have made toward racial equality. We must, in this face of the haters, the bigots, and the racists, strengthen our resolve to tear down the walls that divide us and stand together, shoulder-to-shoulder, in solidarity against intolerance and this kind of violent, destructive, sociopathic behavior directed at our fellow citizens.

Those who have committed these hate crimes have forgotten the lessons of history. They have forgotten or never learned what America went through in the 1960s. They have forgotten the faces on the bridge in Selma, the burning bus of the Freedom Riders ablaze in Anniston, AL and the horrifying scene of demonstrators being dragged from the bus and beaten. They have forgotten the image of ''Bull'' Connor ordering the use of police dogs and fire hoses on demonstrators in Birmingham. They have forgotten or never learned the meaning of the assassination of Dr. King. These thugs are no different than the haters, cowards, and common criminals in white hoods who burned crosses in the middle of the night in a reign of terror against innocent people who sought only fairness, equal rights, and justice.

We can thank God that history taught most of us a lesson. History has passed its own lesson on the cross-burners along with men like ''Bull'' Connor because of their racism, ignorance and cowardice. But now, years later, those who learned nothing from history, or those too young, too alone, too desocialized, disinterested, or demoralized to know better are burning churches instead of crosses, and they must be brought to justice.

As a nation and as one people united in our constitutional, religious, and philosophical belief in equal justice

under the law, we cannot let the actions of these criminals result in bitterness, anger, or retaliation. We cannot let them divide us. We must remember the words of Martin Luther King who said,

"I've seen too much hate to want to hate myself, and I've seen hate on the faces of too many sheriffs, too many White Citizens Councilors, and too many Klansmen of the South to want to hate, myself; and every time I see it, I say to myself: hate is too great a burden to bear."

Let Dr. King's words be our lesson as we find these criminals, bring them to justice, and rally together for an end to hatred and intolerance in this Nation.

I commend the Senators who have taken the leading roles in crafting the language on which we will be voting, and I urge my colleagues to support the bill.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, I rise to cosponsor the Church Arson Protection Act of 1996 introduced today by Senators KENNEDY and FAIRCLOTH.

Since the beginning of this year, a series of fires have swept our country. More than 30 predominantly African-American churches in the southeast have been burned. Not all of the fires have been set by people filled with racial hatred. But many have. And even one is too much.

Passing this measure is the least we can do to address this problem. With this new law, we send a clear message to every person who is thinking of setting fire to a place of worship: we will catch you. If you think that any church is small and remote, think again. No church is too small or remote for us not to care about it. If you think that you can burn all of the evidence, think again. We will find the evidence. If you think that no one cares if you burn a church used by African Americans, think again. This Nation condemns your actions.

In the last few months, the FBI, the Bureau of Alcohol, Tobacco and Firearms, and State and local law enforcement have vigorously investigated the fires in our churches. They have made numerous arrests and have leads on many other cases.

Despite this progress, the news of these fires is genuinely disturbing and perplexing. How could anyone do such a heinous thing? How could anyone burn a church and feel proud of their actions? No one who is truly committed to the principles of our country could do this. This Nation was founded on tolerance and respect for religious worship. And the greatest battle of our country's short life has been fought for the principle of racial tolerance.

Many people may say that these fires are a blow aimed at racial and religious equality. And they are. But they are feeble and small swats. We will rebuild the burned churches; we will condemn the bigots who started the fires; and with this law, we will help assure that punishment is swift, sure, and severe. These fires cannot undo the progress in race relations that we have made as a nation.

So today, I rise to cosponsor this legislation. And I urge my fellow Senators to pass it rapidly an unanimously.

Mr. D'AMATO. Mr. President, what has happened recently in this country is abominable and we have all heard the reports: yet another church, attended by black parishioners, was torched in the South. The recent rash of arson attacks on black churches should put this country in fear; it has to this Senator.

These cases of arson are more than the destruction of a structure; it is the destruction of the congregation and the communities themselves. This is the time for this body, and for all this Nation, to lend their support to these communities and these congregations for they have suffered a tremendous loss. If we allow this to continue with impunity in America, what protection do any of us have?

The reporting of over 30 church burning in 18 months indicates the need for a swift and just response. The responsible parties must be caught and prosecuted to the fullest extent of the law. These malicious burnings must end and end now.

By Mrs. BOXER (for herself and Mr. BINGAMAN):

S. 1891. A bill to establish sources of funding for certain transportation infrastructure projects in the vicinity of the border between the United States and Mexico that are necessary to accomodate increased traffic resulting from the implementation of the North American Free Trade Agreement, including construction of new Federal border crossing facilities, and for other purposes; to the Committee on Environment and Public Works.

THE BORDER INFRASTRUCTURE, SAFETY, AND CONGESTION RELIEF ACT OF 1996

Mrs. BOXER. Mr. President, I rise today to introduce the Border Infrastructure, Safety and Congestion Relief Act of 1996 with Senator BINGAMAN of New Mexico.

When the Senate debated the North American Free Trade Agreement, I opposed it on the grounds that the United States was unprepared for its impact on our environment, infrastructure, and labor relations. In fact our Mexican border States face trying to handle the increased traffic from NAFTA in less time than it takes to design, review and construct major highway projects.

Now that NAFTA is a reality, however, I am determined to make it work to California's best advantage.

Whatever its shortcomings, NAFTA has increased trade across our borders. However, this trade boom now threatens to overwhelm residents and businesses in the border region of San Diego and Imperial Counties. In California's border community of Otay Mesa, my colleagues, you can see that the new global economy is choking old city streets.

To get a good idea of the problem, you need look no further than Otay Mesa Road.

Just a few miles up the road is the Otay Mesa Port of Entry. Serving a border region of over 4 million people, it is the third-busiest truck crossing on the United States-Mexico border and the only commercial crossing facility linking San Diego and Tijuana. The number of trucks crossing annually at Otay Mesa has increased from 668,000 in 1993 to more than 1.5 million today. Daily traffic is expected to double again by the year 2010.

The Otay Mesa Port is connected to the U.S. Interstate Highway System by this one city street, which narrows to two lanes before reaching Interstate 905. Otay Mesa Road already carries traffic that is three times its design capacity.

In Imperial County the situation is similar, if slightly less intense. The Calexico/Mexicali Port of Entry serves a regional population of 1 million. The border crossing opens on to a two-lane road with no shoulders, which is expected to carry truck, car and bus traffic through the heart of Calexico.

Between Otay Mesa and Calexico, construction is beginning on a new Federal border port of entry at Tecate. The U.S. Department of Transportation is providing no direct funding to link any of these stations with the regional road networks.

The California Transportation Commission recently approved shifting $244 million from other transportation projects in the State to the border region as a down payment on about $1 billion in needed infrastructure improvements to serve commercial vehicle traffic crossing the California-Mexico border.

The State of California is doing its share. Now, State transportation officials are demanding Federal assistance—over and above the State's current Federal highway funding—to help pay for these border improvements.

That is why Senator BINGAMAN and I are introducing the Border Infrastructure, Safety and Congestion Relief Act of 1996.

Our bill provides a two-level system for Federal assistance to fund the States' top-priority border infrastructure projects:

First, it establishes a $500 million Border Infrastructure Trust Fund to provide grants by the Secretary of Transportation to the States in order to pay for new or upgraded connections to the National Highway System.

States could also be reimbursed for projects that have begun any time since 1994, when NAFTA was implemented. This means that California would not be penalized for putting its State money up early to prepare for NAFTA with projects such as the new inspection station at Otay Mesa.

We also allow provide up to $10 million, if needed, for the Attorney General to use to provide transportation improvements for the Border Patrol

and other law enforcement agencies. I believe that we should do more at the border to deter drug smuggling and illegal immigration. My bill will provide important help in funding access roads, lighting, and other transportation improvements needed by our Federal law enforcement agencies.

The second part of our bill would authorize Federal loan guarantees to assist the States in financing major construction of high-cost, revenue-producing projects, such as toll roads. The assistance is provided through the State Infrastructure Bank pilot program, established under the National Highway System Designation Act of 1995. Our bill, however, would authorize new Federal funds to finance border infrastructure projects.

The final part of the bill authorizes Federal assistance to railroad projects in the border region which are intermodal and will provide traffic congestion relief by providing a rail alternative for freight shipments. These loan guarantees for railroad improvements would be provided under the Railroad Revitalization and Regulatory Reform Act of 1976.

This assistance is critical to San Diego's efforts to reopen the eastern extension of the San Diego & Arizona Eastern Railway. Extending this railroad across southeastern California will provide a critical link to the U.S. national rail network. By providing fast and efficient service to new markets throughout Mexico, it is also San Diego's best opportunity to take advantage of NAFTA. Trade with Mexico's interior offers the San Diego region its greatest opportunity to take full advantage of NAFTA. But this cannot happen without good, dependable rail service.

In today's post-cold-war global marketplace, the competition is economic. America's place in the world will be determined largely by our ability to produce and market goods and services and deliver them efficiently into that global marketplace.

I have been working with the San Diego House delegation, local elected officials, and members of the community to make Washington pay much greater attention to our infrastructure needs at the border. The San Diego Association of Governments, the four-State Border Trade Alliance business group and the Greater San Diego Chamber of Commerce have endorsed my legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1891

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 ''Border Infrastructure Safety and Congestion Relief Act of 1996''.

SEC. 2. FINDINGS.

Congress finds that—

(1) although the United States Customs Service has collected increased duties, merchandise fees, and revenues from other commerce-related activities because of the approval and implementation of the North American Free Trade Agreement, these increased revenues have not been accompanied by Federal funding for improving transportation facilities along the international borders of the United States to ensure the free and safe flow of trade destined for all States and regions of the United States;

(2) because of NAFTA, all 4 States along the United States-Mexico border will require significant investments in highway infrastructure capacity and motor carrier safety enforcement at a time when border States face extreme difficulty in meeting current highway funding needs;

(3) the full benefits of increased international trade can be realized only if delays at the borders are significantly reduced; and

(4) the increased revenues to the general fund of the Treasury described in paragraph (1) should be sufficient to provide Federal funding for transportation improvements required to accommodate NAFTA-generated traffic, in an amount above and beyond regular Federal transportation funding apportionments.

SEC. 3. DEFINITIONS.

In this Act:

(1) BORDER REGION.—The term ''border region'' means the region located within 60 miles of the United States border with Mexico.

(2) BORDER STATE.—The term ''border State'' means California, Arizona, New Mexico, and Texas.

(3) FUND.—The term ''Fund'' means the Border Transportation Infrastructure Fund established under section 4(g).

(4) NAFTA.—The term ''NAFTA'' means the North American Free Trade Agreement.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SEC. 4. DIRECT FEDERAL ASSISTANCE FOR BORDER CONSTRUCTION AND CONGESTION RELIEF.

(a) IN GENERAL.—Using amounts in the Fund, the Secretary shall make grants under this section to border States that submit an application that demonstrates need, due to increased traffic resulting from the implementation of NAFTA, for assistance in carrying out transportation projects that are necessary to relieve traffic congestion or improve enforcement of motor carrier safety laws.

(b) GRANTS FOR CONNECTORS TO FEDERAL BORDER CROSSING FACILITIES.—The Secretary shall make grants to border States for the purposes of connecting, through construction or reconstruction, the National Highway System designated under section 103(b) of title 23, United States Code, with Federal border crossing facilities located in the United States in the border region.

(c) GRANTS FOR WEIGH-IN-MOTION DEVICES IN MEXICO.—The Secretary shall make grants to assist border States in the purchase, installation, and maintenance of weigh-in-motion devices and associated electronic equipment that are to be located in Mexico if real time data from the devices is provided to the nearest United States port of entry and to State commercial vehicle enforcement facilities that serve the port of entry.

(d) GRANTS FOR COMMERCIAL VEHICLE ENFORCEMENT FACILITIES.—The Secretary shall make grants to border States to construct, operate, and maintain commercial vehicle enforcement facilities located in the border region.

(e) LIMITATIONS ON EXPENDITURES OF FUNDS.—

(1) COST SHARING.—A grant under this section shall be used to pay the Federal share of the cost of a project. The Federal share shall be 80 percent.

(2) ALLOCATION AMONG STATES.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2001, the Secretary shall allocate amounts remaining in the Fund, after any transfers under section 5, among border States in accordance with an equitable formula established by the Secretary in accordance with subparagraphs (B) and (C).

(B) CONSIDERATIONS.—Subject to subparagraph (C), in establishing the formula, the Secretary shall consider—

(i) the annual volume of international commercial vehicle traffic at the ports of entry of each border State as compared to the annual volume of international commercial vehicle traffic at the ports of entry of all border States, based on the data provided in the most recent report submitted under section 8;

(ii) the percentage by which international commercial vehicle traffic in each border State has grown during the period beginning on the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182) as compared to that percentage for each other border State; and

(iii) the extent of border transportation improvements carried out by each border State during the period beginning on the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182).

(C) MINIMUM ALLOCATION.—Each border State shall receive not less than 5 percent of the amounts made available to carry out this section during the period of authorization under subsection (i).

(f) ELIGIBILITY FOR REIMBURSEMENT FOR PREVIOUSLY COMMENCED PROJECTS.—The Secretary shall make a grant under this section to a border State that reimburses the border State for a project for which construction commenced after January 1, 1994, if the project is otherwise eligible for assistance under this section.

(g) BORDER TRANSPORTATION INFRASTRUCTURE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Border Transportation Infrastructure Fund to be used in carrying out this section, consisting of such amounts as are appropriated to the Fund under subsection (i).

(2) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), upon request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to make grants under this section and transfers under section 5.

(B) ADMINISTRATIVE EXPENSES.—An amount not exceeding 1 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this section.

(h) APPLICABILITY OF TITLE 23.—Title 23, United States Code, shall apply to grants made under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund to carry out this section and section 5 $125,000,000 for each of fiscal years 1998 through 2001. The appropriated amounts shall remain available for obligation until the end of the third fiscal year following the fiscal year for which the amounts are appropriated.

SEC. 5. CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.

At the request of the Attorney General, the Secretary may transfer, during the period consisting of fiscal years 1998 through 2001, up to $10,000,000 of the amounts from the Fund to the Attorney General for the

construction of transportation infrastructure necessary for law enforcement in border States.

SEC. 6. BORDER INFRASTRUCTURE INNOVATIVE FINANCING.

(a) PURPOSES.—The purposes of this section are—

(1) to encourage the establishment and operation of State infrastructure banks in accordance with section 350 of the National Highway System Designation Act of 1995 (109 Stat. 618; 23 U.S.C. 101 note); and

(2) to advance transportation infrastructure projects supporting international trade and commerce.

(b) FEDERAL LINE OF CREDIT.—Section 350 of the National Highway System Designation Act of 1995 (109 Stat. 618; 23 U.S.C. 101 note) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

''(l) FEDERAL LINE OF CREDIT.—

''(1) DEFINITIONS.—In this subsection, the terms 'border region' and 'border State' have the meanings provided in section 3 of the Border Infrastructure Safety and Congestion Relief Act of 1996.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the general fund of the Treasury $100,000,000 to be used by the Secretary to make lines of credit available to—

''(A) border States that have established infrastructure banks under this section; and

''(B) the State of New Mexico which has established a border authority that has bonding capacity.

''(3) AMOUNT.—The line of credit available to each participating border State shall be equal to the product of—

''(A) the amount appropriated under paragraph (2); and

''(B) the quotient obtained by dividing—

''(i) the contributions of the State to the Highway Trust Fund during the latest fiscal year for which data are available; by

''(ii) the total contributions of all participating border States to the Highway Trust Fund during that fiscal year.

''(4) USE OF LINE OF CREDIT.—The line of credit under this subsection shall be available to provide Federal support in accordance with this subsection to—

''(A) a State infrastructure bank engaged in providing credit enhancement to creditworthy eligible public and private multimodal projects that support international trade and commerce in the border region; and

''(B) the New Mexico Border Authority;

(each referred to in this subsection as a 'border infrastructure bank').

''(5) LIMITATIONS.—

''(A) IN GENERAL.—A line of credit under this subsection may be drawn on only—

''(i) with respect to a completed project described in paragraph (4) that is receiving credit enhancement through a border infrastructure bank;

''(ii) when the cash balance available in the border infrastructure bank is insufficient to pay a claim for payment relating to the project; and

''(iii) when all subsequent revenues of the project have been pledged to the border infrastructure bank.

''(B) THIRD PARTY CREDITOR RIGHTS.—No third party creditor of a public or private entity carrying out a project eligible for assistance from a border infrastructure bank shall have any right against the Federal Government with respect to a line of credit under this subsection, including any guarantee that the proceeds of a line of credit will be available for the payment of any particular cost of the public or private entity that may be financed under this subsection.

''(6) INTEREST RATE AND REPAYMENT PERIOD.—Any draw on a line of credit under this subsection shall—

''(A) accrue, beginning on the date the draw is made, interest at a rate equal to the current (as of the date the draw is made) market yield on outstanding, marketable obligations of the United States with maturities of 30 years; and

''(B) shall be repaid within a period of not more than 30 years.

''(7) RELATIONSHIP TO STATE APPORTIONMENT.—Funds made available to States to carry out this subsection shall be in addition to funds apportioned to States under section 104 of title 23, United States Code.''.

SEC. 7. RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM.

(a) PURPOSE.—The purpose of this section is to provide assistance for freight rail projects in border States that benefit international trade and relieve highways of increased traffic resulting from NAFTA.

(b) ISSUANCE OF OBLIGATIONS.—The Secretary shall issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 832), in such amounts, and at such times, as may be necessary to—

(1) pay any amounts required pursuant to the guarantee of the principal amount of an obligation under section 511 of the Act (45 U.S.C. 831) for any eligible freight rail project described in subsection (c) during the period that the guaranteed obligation is outstanding; and

(2) during the period referred to in paragraph (1), meet the applicable requirements of this section and sections 511 and 513 of the Act (45 U.S.C. 832 and 833).

(c) ELIGIBILITY.—Assistance provided under this section shall be limited to those freight rail projects located in the United States that provide intermodal connections that enhance cross-border traffic in the border region.

(d) LIMITATION.—Notwithstanding any other provision of law, the aggregate unpaid principal amounts of obligations that may be guaranteed by the Secretary under this section may not exceed $100,000,000 during any of fiscal years 1998 through 2001.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make loan guarantees under this section $10,000,000 for each of fiscal years 1998 through 2001.

SEC. 8. REPORT.

(a) IN GENERAL.—The Secretary shall annually submit to Congress and the Governor of each border State a report concerning—

(1) the volume and nature of international commercial vehicle traffic crossing the border between the United States and Mexico; and

(2)(A) the number of international commercial vehicle inspections conducted by each border State at each United States port of entry; and

(B) the rate of out-of-service violations of international commercial vehicles found through the inspections.

(b) INFORMATION PROVIDED BY UNITED STATES CUSTOMS SERVICE.—For the purpose of preparing each report under subsection (a)(1), the Commissioner of Customs shall provide to the Secretary such information described in subsection (a)(1) as the Commissioner has available.

By Mr. LAUTENBERG (for himself and Mr. WELLSTONE):

S. 1892. A bill to reward States for collecting Medicaid funds expended on tobacco-related illnesses, and for other purposes; to the Committee on Finance.

THE TOBACCO MEDICAID RECOVERY ACT OF 1996

Mr. LAUTENBERG. Mr. President, I rise to introduce the Tobacco Medicaid Recovery Act, along with Senator WELLSTONE.

This bill will create a new Federal/State partnership to help recover Medicaid costs associated with tobacco use.

Mr. President, for years, the tobacco industry has hooked Americans on products that cause death and disease. They've made billions of dollars in the process. But they've never been held accountable.

When big tobacco sells it's deadly products, all Americans pay the price. Not only through the mothers and fathers, sisters and brothers who are lost to lung cancer and other diseases. But through the higher taxes that must be paid to support programs like Medicaid.

Mr. President, 10 courageous states are suing the tobacco industry for the large Medicaid costs associated with tobacco use. There are two other states, including New Jersey, that will soon file suit and 10 others that may file before the summer is out. These suits enjoy bipartisan support from Democratic and Republican governors and Democratic and Republican state attorney generals. In fact, I was pleased to be joined this morning in unveiling this legislation with Mike Moore, attorney general from Mississippi, Hubert ''Skip'' Humphrey, attorney general from Minnesota, and Bob Butterworth, attorney general from Florida. They are all leaders in suing the tobacco industry for Medicaid costs and strongly support this legislation. The Minnesota suit is being supported by its Republican Governor, Arne Carlson, and the Florida suit is being supported by its Democratic Governor, our former colleague Lawton Chiles.

Mr. President, the tobacco industry is fighting hard to avoid being held accountable. It doesn't just use every hardball legal tactic in the book. It has even sent its hired guns into state attorney generals' offices to intimidate them.

In one case, a state official was warned not to sue the industry—and if the state did, the industry would force the state to pay enormous sums—including the possible deposition of every single Medicaid recipient in that state.

Mr. President, the courageous states, like Mississippi, Minnesota and Florida, who have taken on the tobacco companies deserve more Federal support—because they are doing the Federal taxpayers' bidding. If they are successful in their litigation, they must return the Federal portion of Medicaid funds to Washington. The Federal government should be helping them get this money, not sitting on its hands.

This legislation would allow the states to keep a third of the Federal

portion to better serve the needs of their Medicaid recipients—their seniors, disabled, poor children and pregnant women.

Another third of the Federal share would go to the National Institutes of Health to conduct research on the diseases caused by tobacco products, like lung cancer and heart disease.

Finally, the balance would go into the Federal Treasury to help reduce the deficit.

Currently, many states are sitting on the fence, thinking how difficult and expensive it will be to sue the tobacco industry. This bill may get them off the fence, and into battle with the industry.

Mr. President, it is time for the Federal government to help states get the taxpayers' money back. It is time to reward the states for trying to hold the tobacco companies accountable, and provide an incentive for those considering entering the fray.

This bill could provide states with millions in much needed Medicaid funds. It could increase funding for the National Institutes of Health. And it will not increase the deficit.

I urge my colleagues on both sides of the aisle to support this common sense legislation that will help our state taxpayers.

Mr. President, I ask unanimous consent the text of the legislation and a summary of it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1892

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 ''Tobacco Medicaid Recovery Act of 1996''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Federal taxpayers pay for approximately $20,000,000,000 each year in Federal health expenditures to treat tobacco-related illnesses, including expenditures incurred under the medicare and medicaid programs operated under titles XVIII and XIX of the Social Security Act, health care programs carried out by the Secretary of Veterans Affairs under chapter 17 of title 38, United States Code, and other Federal health care programs. These expenditures often contribute to an increase in the Federal budget deficit.

(2) According to the Centers for Disease Control and Prevention, tobacco-related illnesses cost the medicaid program under title XIX of the Social Security Act $5,100,000,000 each year.

(3) The efforts of several States that are attempting under Federal law, including in some cases, under the Federal anti-racketeering statutes, or under State law, to recover the health care costs incurred under the medicaid program for the treatment of individuals with diseases attributable to the use of tobacco products from the manufacturers of such products, are to be commended.

(b) PURPOSE.—The purpose of this Act is to reward States that successfully recover the Federal and State health care costs incurred under the medicaid program for the treatment of individuals with diseases attributable to the use of tobacco products by providing increased funding for their medicaid programs and to provide increased resources to the National Institutes of Health.

SEC. 3. INCENTIVE PAYMENTS FOR COLLECTION OF MEDICAID FUNDS EXPENDED ON TOBACCO-RELATED ILLNESSES.

(a) FINANCIAL REWARD FOR SUCCESSFUL RECOVERIES.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following new paragraph:

''(7)(A) Notwithstanding any other provision of law, if a State recovers, by judgment in, or settlement of, any suit arising under Federal or State law, amounts expended as medical assistance under the State plan for the treatment of individuals with diseases attributable to the use of tobacco products, from a manufacturer of tobacco products, the State shall notify the Secretary of the amount of such recovery. Upon receipt of such a notice, the Secretary shall determine the amount of Federal expenditures under this title that are attributable to the amounts recovered, based on the Federal medical assistance percentage, as defined in section 1905(b), for such State. The Secretary shall treat the amount so determined as an overpayment under this section, in accordance with paragraph (2)(A), and with respect to such amount shall do the following:

''(i) Provide that the State shall retain ⅓ of such amount, for the purpose of using such funds to meet the non-Federal share of expenditures under the State plan with respect to which payments may be made under this title.

''(ii) Pay ⅓ of such amount to the Director of the National Institutes of Health, for the purpose of conducting disease research.

''(B) Any amount of new budget authority or outlays resulting from the provisions of this paragraph shall not be counted for any purpose under section 251 or 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(C) For purposes of this paragraph—

''(i) the term 'manufacturer of tobacco products' has the meaning given such term by section 5702(d) of the Internal Revenue Code of 1986; and

''(ii) the term 'tobacco products' has the meaning given such term by section 5702(c) of such Code.''.

(b) CONFORMING AMENDMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking ''and'' at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting ''; and''; and

(3) by inserting after paragraph (62) the following new paragraph:

''(63) provide that the State shall provide prompt notice to the Secretary of the amount of any recovery from a manufacturer of tobacco products, as defined in section 1903(d)(7)(C)(i), of expenditures for medical assistance provided under such plan for the treatment of individuals with diseases attributable to the use of tobacco products, as defined in section 1903(d)(7)(C)(ii).''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to amounts recovered on and after the date of the enactment of this Act.

LAUTENBERG BILL TO REWARD STATES FOR RECOUPING MEDICAID EXPENDITURES FOR TOBACCO-RELATED ILLNESSES

This legislation recognizes the following:

States who sue the tobacco industry for Medicaid costs face tremendous expenses, intimidation and extraordinary legal tactics from the tobacco industry.

Pursuant to the Medicaid statute and other legal interpretations, states must return the Federal Medicaid share of any award to the Federal government.

States should be rewarded for their efforts to recoup Federal tax dollars.

This bill will do the following:

Upon a settlement or a jury award between a state and a tobacco company, the Federal government shall return 33 percent of the Federal share of the award to the states to be used in their Medicaid programs.

Another 33 percent of the Federal share shall be placed in an NIH Trust Fund to be used for research on lung cancer, heart disease and other illnesses.

The final 34 percent of the Federal share shall be used for deficit reduction.

By Mrs. FEINSTEIN:

S. 1893. A bill to provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes; to the Committee on Indian Affairs.

THE TORRES-MARTINEZ SETTLEMENT AGREEMENT ACT OF 1996

Mrs. FEINSTEIN. Mr. President, today I rise to introduce legislation that will ratify the settlement agreement negotiated by the U.S. Departments of the Interior and Justice, Imperial Irrigation Water District, Coachella Valley Water District, and the Torres-Martinez Desert Cahuilla Indian Tribe. This settlement agreement resolves a long standing dispute to replace reservation lands the Torres-Martinez Tribe lost due to flooding from the Salton Sea.

In 1876, the Torres-Martinez Indian Reservation was created by a 640-acre section of land in Coachella Valley, California at the northern end of the Salton Sink. The Reservation was expanded in 1891 adding approximately 12,000 acres to the original 640-acre reservation. Between 1905 and 1907, flood waters of the Colorado River filled the Salton Sink, creating the Salton Sea, inundating approximately 2,000 acres of the reservation lands. In 1909, an additional 9,000 acres of land were then submerged under the Salton Sea.

Today, the federal government holds 25,000 acres of the reservation in trust for the Tribe. Of this parcel, 11,800 acres is either currently under water or has been condemned as uninhabitable due to runoff and drainage water from the irrigation systems of the Imperial, Coachella, and Mexicali Valleys into the Salton Sea. Since 1982, the United States government, acting for the Tribe, has been negotiating with the Imperial and Coachella Valley Water Districts to compensate the Tribes for the loss of their reservation lands.

In the settlement agreement, the Torres-Martinez Indian Tribe will receive $14 million: $10 million from the U.S. government and $4 million from the water districts. From these funds, the Tribe can acquire and take into trust 11,800 acres of land. Of these parcels, 11,160 must be contiguous to existing reservation land. The Tribe can acquire the remaining 640 acres within the Coachella Valley only if the local

governing body or Riverside County does not object. The Tribe's right to conduct gaming on lands taken into trust is limited and restricted to one gaming operation on one site.

In return, the irrigation districts would be granted a permanent flowage easement over tribal and Federal lands within the minus 220 foot contour of the Salton Sink.

The settlement of this land dispute has been a major concern for many years. It has taken more than ten years for all parties involved to reach a consensus on the settlement agreement. There have been competing interests and priorities for everyone involved, including completion of the construction of the Route 86 Expressway project.

All parties involved in negotiating this settlement agreement have worked hard to reach a consensus to implement this agreement. The Tribe has agreed to give local communities the right to veto its purchase of land and Riverside County has passed a resolution in support of this settlement agreement. Moreover, construction of Route 86 will progress.

I commend the Departments of the Interior and Justice, the Coachella and Imperial Water Districts, and the Torres-Martinez Tribe for remaining committed to resolving this issue.

Mr. President, I ask unanimous consent that the resolution passed by Riverside County in support of the agreement and correspondence I have received from the Water Districts and the Torres-Martinez Tribe indicating the accuracy of this legislation in completely implementing the settlement agreement, be printed in the RECORD following my remarks.

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

(See Exhibit 1.)

Mrs. FEINSTEIN. Mr. President, Congressman Sonny Bono introduced identical legislation last Thursday and the Native American and Insular Affairs Subcommittee of the House Resources Committee has scheduled hearings this afternoon on this legislation. I look forward to working with the Senate Committee on Indian Affairs to implement this agreement in law and the Appropriations Committee to provide funds as outlined in the settlement agreement.

I hope my colleagues will join me today in enacting this legislation.

EXHIBIT 1

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

From: Supervisor Wilson.

Subject: Support of Legislation for Settlement With Torres-Martinez Indian Tribe.

Recommended Motion: That the Board take a position in support of the attached draft legislation, proposed by Congressman Sonny Bono and providing for settlement with the Torres-Martinez Indian Tribe by providing compensation for acquisition of lands in the Coachella Valley; further, direct the county Executive Office to immediately forward copies of the Board Minute Order to members of California's Congressional delegation.

Justification: The accidental creation of the Salton Sea in 1905–1907 resulted in approximately 12,000 acres of Torres-Martinez Indian Tribal lands in the southeastern Coachella Valley being either underwater or unusable. There has been litigation since 1982 by the Federal Government on behalf of the Tribe against Coachella Valley Water District and Imperial Irrigation District, and the Tribe itself filed litigation in 1991. In addition to the issue of compensation to the Tribe, the completion of Highway 86 is also at risk, as the alignment and construction of the highway is contingent on right-of-way on existing Tribal lands.

The attached draft legislation has been developed in consultation with all parties, and I am advised that all are in agreement with its provisions. It provides the Tribe with funds to acquire 12,000 acres, either in entirety in the ''primary'' acquisition area (Avenue 56, also known as Airport Blvd., south to the Riverside/Imperial County line) which is adjacent to existing Tribal lands, or up to 640 acres (out of the total 12,000) in the ''secondary'' acquisition area (the remainder of the Coachella Valley, generally from Desert Hot Springs southeast to Avenue 56).

Finally, the legislation authorizes the Tribe to establish a single gaming site, and provides land use jurisdiction within the secondary acquisition area with the ability to protest acquisition/conversion of land to Tribal status within 60 days of being notified of the Tribe's intent.

County Counsel worked directly with Congressman Bono's staff in development of the draft legislation, and I urge the Board's support of this proposed settlement.

ROY WILSON.

BAYH, CONNAUGHTON & MALONE, P.G.
Washington, DC, June 14, 1996.

Hon. DIANNE FEINSTEIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I would like to transmit correspondence from Coachella Valley Water District, the Imperial Irrigation District and the Torres-Martinez Desert Cahuilla Indians regarding the Torres-Martinez settlement legislation (H.R. 3640).

For the past four years, on behalf of the water districts and in full cooperation with the Tribe, I have assisted in facilitating this settlement through the Departments of the Interior and Justice. The legislation introduced by Rep. Bono in the House accurately and completely implements the settlement agreement. Thus, all parties support enactment of this legislation and ask that you sponsor the companion bill on the Senate side.

We appreciate your consideration of our request and are grateful for all of the help we have received from Mia Ellis, Susy Elfving and your other staff members over the past several years. We are close to the finish line and we ask that you and Senator Boxer help us on the Senate side in enacting this legislation that is so critical to both the Tribe and the water users in the Imperial and Coachella Valleys of California.

Thank you.

Sincerely,

JOSEPH FINDARO.

COACHELLA VALLEY WATER DISTRICT,
Coachella, CA, June 14, 1996.

Hon. DIANE FEINSTEIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The text of the Torres-Martinez settlement legislation (introduced by Congressman Bono in the House as H.R. 3640) accurately and completely implements the settlement agreement. We, therefore, support enactment of this legislation and request that you sponsor this legislation in the Senate.

Yours very truly,

TOM LEVY,
General Manager-Chief Engineer.

IMPERIAL IRRIGATION DISTRICT,
Imperial, CA, June 14, 1996.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I sincerely appreciate your consideration of our request to carry the Senate companion bill to authorize the Torres-Martinez land claims settlement.

The text of the Torres-Martinez settlement legislation (introduced in the House by Rep. Bono as H.R. 3640) accurately and completely implements the settlement agreement. We therefore support enactment of this legislation and request that you sponsor this legislation in the Senate.

Again, thank you for your assistance.

Sincerely,

ERIC E. YODER,
Government Relations.

THE TORRES MARTINEZ
DESERT CAHUILLA INDIANS,
Thermal, CA, June 14, 1996.

Hon. DIANNE FEINSTEIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The text of the Torres-Martinez settlement legislation (introduced by Rep. Bono in the House as H.R. 3640) accurately and completely implements the settlement agreement. We therefore support enactment of this legislation and request that you sponsor this legislation in the Senate.

We thank you for all of your assistance.

Sincerely,

MARY E. BELARDO,
Chairperson.

LAW OFFICES OF
THOMAS E. LUEBBEN,
Albuquerque, NM, June 14, 1996.

Attention: Mia Ellis.

Re Torres-Martinez settlement legislation, H.B. 3640.

Hon. DIANNE FEINSTEIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The text of the Torres-Martinez settlement legislation (introduced by Rep. Bono in the House as H.R. 3640) accurately and completely implements the settlement agreement. We therefore support enactment of this legislation and request that you sponsor this legislation in the Senate.

Sincerely,

RICHARD L. YOUNG,
Attorney for Torres-Martinez,
Desert Cahuilla Indians.

CITY OF DESERT HOT SPRINGS,
Desert Hot Springs, CA, June 10, 1996.

Hon. DIANNE FEINSTEIN,
Senate, Hart Senate Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: Soon President Clinton is expected to approve a settlement of claims by the Torrez-Martinez Desert Cahuilla Indian Tribe regarding the Salton Sea. The Imperial Irrigation District and our district will be signing this agreement along with the Tribe and the Federal government.

This settlement resolve long-standing disputes concerning land and water use in our region of California. At the local level, there is widespread support finally settling the dispute and for swift enactment of legislation to implement this settlement. We, therefore,

urge you to sponsor this legislation for introduction in the Senate concurrently with House introduction.

The Cahuilla Indian Tribe will receive $14 million, approximately $4 million from the two water districts and $10 million from the federal government. The districts will receive permanent flowage easements, the Tribe will be able to purchase new lands, and local water rights will be protected.

We appreciate the attention your staff has given this matter over the last several years and look forward to working with you to obtain implementing legislation.

Sincerely,

GERALD F. PISHA,
Mayor.

ADDITIONAL COSPONSORS

S. 794

At the request of Mr. LUGAR, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 794, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes.

S. 912

At the request of Mr. KOHL, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 912, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 949

At the request of Mr. WARNER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1402

At the request of Mr. CRAIG, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1402, a bill to amend the Waste Isolation Pilot Plant Land Withdrawal Act, and for other purposes.

S. 1491

At the request of Mr. GRAMS, the names of the Senator from Florida [Mr. MACK], the Senator from Tennessee [Mr. FRIST], and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

S. 1641

At the request of Mr. GRAMS, the names of the Senator from Tennessee [Mr. FRIST] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1641, a bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes.

S. 1731

At the request of Mr. CRAIG, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1731, a bill to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes.

S. 1811

At the request of Mr. MACK, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1811, a bill to amend the Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'' to confirm and clarify the authority and responsibility of the Secretary of the Army, acting through the Chief of Engineers, to promote and carry out shore protection projects, including beach nourishment projects, and for other purposes.

S. 1815

At the request of Mr. GRAMM, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1815, a bill to provide for improved regulation of the securities markets, eliminate excess securities fees, reduce the costs of investing, and for other purposes.

SENATE RESOLUTION 238

At the request of Mr. HELMS, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of Senate Resolution 238, a resolution expressing the sense of the Senate that any budget or tax legislation should include expanded access to individual retirement accounts.

AMENDMENT NO. 4048

At the request of Mr. DORGAN the names of the Senator from California [Mrs. BOXER] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of amendment No. 4048 proposed to S. 1745, an original bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

INOUYE AMENDMENT NO. 4050

Mr. INOUYE proposed an amendment to the bill (S. 1745) to authorize appropriations for fiscal year 1997 for military activities for the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert:

SECTION 1. CHIEF AND ASSISTANT CHIEF OF ARMY NURSE CORPS.

(a) CHIEF OF ARMY NURSE CORPS.—Subsection (b) of section 3069 of title 10, United States Code, is amended—

(1) in the first sentence, by striking out ''major'' and inserting in lieu thereof ''lieutenant colonel'';

(2) by inserting after the first sentence the following: ''An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general.''; and

(3) in the last sentence, by inserting ''to the same position'' before the period at the end.

(b) ASSISTANT CHIEF.—Subsection (c) of such section is amended by striking out ''major'' in the first sentence and inserting in lieu thereof ''lieutenant colonel''.

(c) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade

(2) The item relating to such section in the table of sections at the beginning of chapter 307 of title 10, United States Code, is amended to read as follows:

''3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade.''.

SEC. 2. CHIEF AND ASSISTANT CHIEF OF AIR FORCE NURSE CORPS.

(a) POSITIONS AND APPOINTMENT.—Chapter 807 of title 10, United States Code, is amended by inserting after section 8067 the following:

''§ 3069. Air Force nurses: Chief and assistant chief; appointment; grade

''(a) POSITIONS OF CHIEF AND ASSISTANT CHIEF.—There are a Chief and assistant chief of the Air Force Nurse Corps.

''(b) CHIEF.—The Secretary of the Air Force shall appoint the Chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general. The Chief serves during the pleasure of the Secretary, but not for more than three years, and may not be reappointed to the same position.

''(c) ASSISTANT CHIEF.—The Surgeon General shall appoint the assistant chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after section 8067 the following:

''3069. Air Force Nurse Corps: Chief and assistant chief; appointment; grade.''.

GRASSLEY AMENDMENT NO. 4051

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

Insert page 108, at the end of line 5, a new Section 368:

SEC. 368. TRANSFER OF EXCESS PERSONAL PROPERTY TO SUPPORT LAW ENFORCEMENT ACTIVITIES.

(a) TRANSFER AUTHORITY.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2576 the following new section:

''§ 2576a. Excess personal property: sale or donation for law enforcement activities

''(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State