revenue insurance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWN (for himself and Mr. PRYOR):

S. 1277. A bill to provide equitable relief for the generic drug industry, and for other purposes; to the Committee on the Judiciary.

By Mr. BURNS:

S. 1278. A bill to establish an education satellite loan guarantee program for communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE (for himself, Mr. HATCH, Mr. ABRAHAM, Mr. KYL, Mr. REID, Mr. SPECTER, Mrs. HUTCHISON, Mr. THURMOND, Mr. SANTORUM, Mr. BOND, Mr. D'AMATO, and Mr. GRAMM):

S. 1279. A bill to provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 1276. A bill to permit agricultural producers to enter into market transition contracts and receive loans, to require a pilot revenue insurance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FARM INCOME TRANSITION ACT OF 1995

Mr. GRASSLEY. Mr. President, today the Senate Agriculture Committee began marking up the commodity title to the 1995 farm bill. Although I am no longer a member of that committee, the farm bill has as much impact on my State as any other piece of legislation considered before this body.

For that reason, Mr. President, I have used my position on other committees to indirectly influence farm policy. I have also formed a group, the Farm Policy Coalition, that is cochaired by Senator DORGAN and consists of 52 Members of the Senate. In order to more directly influence the debate.

Today, however, the Agriculture Committee was not able to agree on a farm bill to take to reconciliation. And there are rumors that the Budget Committee may have to act to make the necessary cuts in farm spending. As a member of the Budget Committee, I publicly stated that the Agriculture Committee, and not the Budget Committee, is the best place to write the farm bill.

But now with the Agriculture Committee deadlocked, I feel it necessary to send a clear signal, as a Budget Committee member and a Senator interested in the future of agriculture, on how I believe we should proceed on the 1995 farm bill; taking into consideration what is in the best interests of my State and American agriculture as a whole.

Therefore, Mr. President, I rise today to introduce the Farm Income Transition Act of 1995. This bill is similar to one introduced by the distinguished chairman of the House Agriculture Committee, PAT ROBERTS, known as the Freedom to Farm Act.

My bill represents a transition to a new era of farm programs; an era that will be characterized by limited Government intrusion in the market and the unleashing of the productivity of American agriculture. Yet the Federal Government will still play a role in providing a safety-net for the family farmer.

Mr. President, this bill is a dramatic departure from the farm programs of the past. We all know that our current farm programs were established during the Great Depression of the 1930's.

The intent of the program then, as it is now, was to stabilize farm income while ensuring a dependable, abundant, and inexpensive food supply. This is accomplished mainly by making direct payments to farmers when commodity prices are low, and implementing production controls to limit the supply of commodities.

To a large extent, the programs of the past have been successful. The American consumer spends less than 10 percent of their disposable income on food; the lowest of any Nation in the world.

Despite its success, the farm program has had many critics. Some criticize the program for its high degree of Government intervention. Others argue that the benefits go primarily to large, corporate farms. Many farmers, themselves, have grown tired of the endless amount of paperwork and redtape associated with the program.

Through all the criticism, however, the farm program has remained virtually unchanged for the last 50 years. But times have changed. And these changes mandate that a new direction be taken on farm programs.

The crisis of the 1930's was rampant unemployment and poverty. Drastic action was needed to support the income of ordinary Americans.

The crisis of the 1990's is rampant Government spending and intervention into the lives of ordinary Americans. The voters told us in no uncertain terms last November that they wanted the Government out of their lives and the budget deficit brought under control.

Mr. President, the Senate approved a budget resolution this spring that will bring the Federal budget into balance in the year 2002. This resolution contains a sense-of-the Senate calling for a cut in spending on agriculture commodity programs of about $9.6 billion over the next 7 years.

During the debate on the budget, I voiced my strong opposition to further cuts in agriculture spending. I will not repeat all of the arguments I made at that time, but it is clear to me that agriculture has contributed disproportionately to deficit reduction in the past. All I asked for at that time, Mr. President, was that agriculture be treated equitably in the budget process.

I also argued during the budget debate that agriculture, more than any other sector of this economy, has much to gain by achieving a balanced budget.

Agriculture is a capital-intensive business, its success dependent on low-interest rates. Only by getting our fiscal house in order can we ensure a sustained period of low-interest rates and the continued success of the family farmer.

So although Federal spending on agriculture will be reduced, because this reduction is within the context of a balanced budget, agriculture will benefit greatly in the long run.

But, Mr. President, it is vital that as Federal spending on agriculture is reduced, the regulations and restrictions on individual farmers are reduced accordingly. Because if farmers are getting less from the Government, they must have the tools to earn more income from the marketplace.

This bill meets both of these goals: It reduces spending to meet the requirements of my sense-of-the Senate in the budget resolution and it dramatically reduces the regulatory burden placed on farmers.

Mr. President, I will take a moment to describe how this bill accomplishes these goals. First, it mirrors the Freedom to Farm Act by providing farmers with a 7-year contract consisting of annual payments. In return, the farmer must maintain compliance with current conservation requirements. The total payments over the 7-year period are capped at $43 billion, which meets the requirements of the budget resolution.

Furthermore, the regulatory burden on farmers is significantly diminished. For many years, the planting decisions of American farmers have been dictated, in part, by the U.S. Congress and the Department of Agriculture. This limits a farmer's ability to maximize his profit from the marketplace. These decisions must be removed from the hands of bureaucrats and put back into the hands of the farmers.

My bill provides for full planting flexibility. Farmers' planting decisions will no longer be restricted by their historical crop base. This will allow farmers to plant for the marketplace and not the Federal farm program.

The bill also eliminates the acreage reduction program. No longer will farmers be required to leave a portion of their productive land unplanted because of a mandate imposed by Washington.

Furthermore, the bill maintains certain aspects of the current farm program while reforming others. For instance, nonrecourse loans will continue to be made available. This is a necessary and important marketing tool for farmers that does not require direct Government spending.

On the other hand, the three-entity rule is eliminated. Payments will now be directly attributed to farmers instead of corporations and other entities.

Last, the bill provides for a new era of farm programs based on risk management. Specifically, it directs the Secretary to initiate a revenue insurance pilot program as an alternative to the crop insurance program.

Revenue insurance will cost the Federal Government no more than the current crop insurance program. But it will give the farmer a solid and dependable safety net.

The program will allow a farmer to pay a premium to protect himself from a significant decline in revenue, whether it is caused by crop loss or low prices. Thus unlike crop insurance, the farmer is protected from both natural disasters and from situations when too much grain on the market causes extremely low prices.

This revenue insurance program truly represents a revolutionary new farm program.

Mr. President, the future of American agriculture is not in Government payments and subsidies. The future of American agriculture rests on the ability of farmers to remain competitive in a world marketplace.

The role of government consists of opening access to new markets for agricultural products, providing research for the development of better crops and new uses for existing commodities, and providing a safety net for the family farm structure.

Mr. President, I am convinced that not only will American agriculture reach unprecedented levels of productivity and profitability in the future, but there will continue to be a vital role for the family farmer.

The independent, family farmer is still the backbone of the agricultural economy in my State of Iowa. These farmers tell me that they can compete with the large farms, if they only have a level playing field and equal access to markets and information.

Government should do everything in its power to provide this level playing field. I believe that the bill I have introduced today helps put all farmers on an equal footing as agriculture approaches the 21st century.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1276

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 ''Farm Income Transition Act of 1995 ''.

SEC. 2. CERTAINTY AND FLEXIBILITY FOR AGRICULTURAL PROGRAMS.

The Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended—

(1) by transferring sections 106, 106A, and 106B to the end of part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) and redesignating the sections as sections 320D, 320E, and 320F, respectively;

(2) by moving sections 104, 111, 112, 114, and 202 to the end of title IV and redesignating the sections as sections 428, 429, 430, 431, and 432 respectively;

(3) by moving sections 108B, 204, and 206 to the end of title IV (as amended by paragraph (2)) and redesignating the sections as sections 433, 434, and 435, respectively; and

(4) by striking titles I through III and inserting the following:

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) CONSIDERED PLANTED.—The term 'considered planted', with respect to acreage on a farm, means acreage considered planted to a covered commodity (as defined in section 201(a)) in the conservation reserve, or under a program in effect under this Act through the 1995 crop of a commodity or the 1996 crop of winter wheat on—

''(A) any reduced acreage on the farm;

''(B) any acreage on the farm that producers were prevented from planting to the commodity because of drought, flood, or other natural disaster, or other condition beyond the control of the producers;

''(C) acreage in a quantity equal to the difference between the permitted acreage for a commodity and the acreage planted to the commodity, if the acreage considered to be planted is devoted to conservation uses or the production of crops permitted by the Secretary under the programs established for any of the 1990 through 1994 crops of a commodity; or

''(D) any acreage on the farm that the Secretary determines is necessary to be included in establishing a fair and equitable crop acreage base.

''(2) CROP ACREAGE BASE.—The term 'crop acreage base' means the average of the quantity of acres planted and considered planted to the commodity for the 1990 through 1994 crops, including the crop acreage base for extra long staple cotton established under section 103(h)(5) (as in effect prior to the date of enactment of the Farm Income Transition Act of 1995).

''(3) DOUBLE CROPPING.—The term 'double cropping' means a farming practice, as defined by the Secretary, that has been carried out on a farm during at least 3 of the 5 crop years immediately preceding the crop year for which the crop acreage base for the farm is established.

''(4) MARKET TRANSITION PAYMENT.—The term 'market transition payment' means a payment made pursuant to a contract entered into under section 201 with producers on a farm who—

''(A) satisfy the eligibility requirements of section 201(c); and

''(B) in exchange for annual payments, are in compliance with the conservation compliance plan for the farm prepared in accordance with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) and wetland protection requirements applicable to the farm under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.).

''(5) NONRECOURSE COMMODITY LOAN.—The term 'nonrecourse commodity loan' means a nonrecourse loan paid to producers on a farm under the terms provided in section 202.

''(6) PERSON.—The term 'person' means an individual, corporation, or other entity, as defined by the Secretary.

''(7) PRODUCERS.—The term 'producers' means 1 or more individual persons who, as determined by the Secretary—

''(A) share in the risk of production of a commodity; and

''(B) is, or would have been, entitled to a share of the proceeds from the marketing of the commodity.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(9) UNITED STATES.—The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

''TITLE I—FUNDING FOR FEDERAL FARM PROGRAM COMMODITY PAYMENTS

''SEC. 101. EXPENDITURES FOR MARKET TRANSITION PAYMENTS FOR 1996 THROUGH 2002 CROP YEARS.

''(a) TOTAL EXPENDITURES.—The total amount of funds expended by the Commodity Credit Corporation under this title may not exceed $46,920,000,000 for—

''(1) payments made for the 1995 crop of a commodity after September 30, 1995; and

''(2) market transition payments for a commodity for the 1996 through 2002 crops.

''(b) TOTAL EXPENDITURES PER CROP YEAR.—The Secretary shall, to the maximum extent practicable, expend not more than the following amounts on market transition payments:

''(1) For the 1996 crop, $8,260,000,000.

''(2) For the 1997 crop, $7,240,000,000.

''(3) For the 1998 crop, $7,080,000,000.

''(4) For the 1999 crop, $6,850,000,000.

''(5) For the 2000 crop, $6,590,000,000.

''(6) For the 2001 crop, $5,490,000,000.

''(7) For the 2002 crop, $5,380,000,000.

''(c) COMMODITY CREDIT CORPORATION.—

''(1) SALARIES AND EXPENSES.—No funds of the Commodity Credit Corporation may be used to pay any salary or expense of an officer or employee of the Department of Agriculture in connection with the administration of market transition payments or nonrecourse commodity loans.

''(2) AGRICULTURAL PRODUCTION.—No funds of the Commodity Credit Corporation in excess of the amounts authorized by subsection (b) may be used to support—

''(A) the price of a covered commodity (as defined in section 201(a)) or any similar activity in relation to the commodity; or

''(B) the income of producers on a farm.

''TITLE II—MULTIYEAR PAYMENTS TO IMPROVE FARMING CERTAINTY AND FLEXIBILITY

''SEC. 201. MARKET TRANSITION PAYMENTS.

''(a) DEFINITION OF COVERED COMMODITY.—In this section, the term 'covered commodity' means wheat, corn, grain sorghums, barley, oats, upland cotton, extra long staple cotton, and rice.

''(b) MARKET TRANSITION CONTRACTS.—

''(1) OFFER AND CONSIDERATION.—Beginning as soon as practicable after the date of enactment of the Farm Income Transition Act of 1995, but not later than February 1, 1996, the Secretary shall offer to enter into a market transition contract with producers on a farm who satisfy the requirements of subsection (c). Participating producers shall agree, in exchange for annual payments, to comply with the conservation compliance plan for the farm established under section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) and the wetland protection requirements applicable to the farm under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.).

''(2) ENTRY INTO CONTRACTS.—

''(A) DEADLINE.—Except as provided in subparagraphs (B) and (C), producers on a farm shall elect whether to enter into a market transition contract not later than April 15, 1996.

''(B) CONSERVATION RESERVE LANDS.—

''(i) IN GENERAL.—In the case of a conservation reserve contract applicable to cropland on a farm that expires after April 15, 1996, producers on the farm shall have the option of including the cropland on the farm that has considered planting history (as determined by the Secretary) in a market transition contract of the producers. To be eligible, the cropland must include 1 or more crop

acreage bases attributable to the cropland (as determined by the Secretary).

''(ii) WHOLE FARM ENROLLED IN CONSERVATION RESERVE.—Producers on a farm who have enrolled the entire cropland on the farm, as determined by the Secretary, into the conservation reserve shall have the option, on expiration of the conservation reserve contract, to enter into a market transition contract.

''(iii) AMOUNT.—Market transition payments made for cropland under this subparagraph shall be made at the rate and amount applicable to the market transition payment level for that year.

''(C) 1996 CROP OF WINTER WHEAT.—

''(i) IN GENERAL.—Producers on a farm who plant a 1996 crop of winter wheat in 1995 may elect to enter into a market transition contract, or obtain loans and payments for the 1996 crop of winter wheat, under the same terms and conditions as were in effect for the 1995 crop of winter wheat.

''(ii) TIMING OF PAYMENTS.—The Secretary shall, if the Secretary determines practicable, pay producers on a farm who plant a 1996 crop of winter wheat and elect to enter into a market transition contract for the crop—

''(I) an advance payment not later than June 1, 1996; and

''(II) a final payment not later than September 30, 1996.

''(iii) SUBSEQUENT CROPS.—Producers on a farm who plant a 1996 crop of winter wheat shall elect whether to enter into a market transition contract for each of the 1997 through 2002 crops not later than April 15, 1996.

''(3) DURATION OF CONTRACT.—Except for the 1996 crop of winter wheat, a market transition contract shall apply to the 1996 crop of a covered commodity and terminate on December 31, 2002.

''(c) ELIGIBILITY FOR MARKET TRANSITION PAYMENTS.—

''(1) IN GENERAL.—To be eligible for market transition payments, producers on a farm must—

''(A) own, rent, or crop share land that has a crop acreage base that is attributable to the farm, as determined by the Secretary; and

''(B) satisfy the criteria under paragraph (2).

''(2) PAYMENTS BASED ON PRODUCTION HISTORY.—Producers on a farm shall be eligible for market transition payments if deficiency payments and, if applicable, conservation reserve payments were made for covered commodities that were planted, or considered planted, on a crop acreage base established on the farm for at least 2 of the 1990 through 1994 crops.

''(d) AMOUNT OF MARKET TRANSITION PAYMENTS.—

''(1) DEFINITION OF PAYMENTS.—In this subsection (except as otherwise specifically provided), the term 'payments' means—

''(A) deficiency payments; and

''(B) if applicable, the lesser of—

''(i) conservation reserve payments; or

''(ii) the amount of deficiency payments that would have been made for the quantity of the covered commodity considered planted if the commodity had been planted, as determined by the Secretary.

''(2) 1990-1994 PAYMENTS.—The Secretary shall determine the total amount of payments—

''(A) made to producers on a farm for all covered commodities that were planted or considered planted on the farm for the 1990 through 1994 crops; and

''(B) made for all covered commodities that were planted and considered planted throughout the United States for the 1990 through 1994 crops.

''(3) MARKET TRANSITION PAYMENT FOR 1996-2002 CROPS.—The annual market transition payment for each of the 1996 through 2002 crops shall equal the product of—

''(A) the total amount of payments made to producers on a farm determined under paragraph (2)(A) divided by the total amount of payments made throughout the United States determined under paragraph (2)(C); and

''(B) the annual funding available for the crop under section 101(b).

''(4) ADJUSTMENT.—To maintain equity and fairness in market transition payments, the Secretary shall, as determined appropriate, adjust the payments to producers on a farm to reflect the ratio of—

''(A) the land on the farm on which there is historical production and considered planting history on 1 or more crop acreage bases; to

''(B) the land on the farm for which the producers on the farm are at risk in the year of the market transition payment.

''(e) RECEIPT OF MARKET TRANSITION PAYMENTS.—

''(1) ANNUAL PAYMENT ESTIMATE.—The Secretary shall announce the estimated minimum payment to producers entering into a market transition contract not later than March 15 of each year of the term of the contract. The producers may terminate the contract without penalty not later than 15 days after the date of the announcement.

''(2) TIMING OF PAYMENTS.—

''(A) IN GENERAL.—Payments shall be made not later than September 30 of the year covered by the contract.

''(B) ADVANCE PAYMENT.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary may provide ½ of the annual payment in advance to producers on a farm not later than March 15 of the same year, at the option of the producers.

''(ii) 1996 CROP.—If the Secretary elects to provide advance payments for the 1996 crop, the Secretary shall make the advance payments as soon as practicable after the date of enactment of the Farm Income Transition Act of 1995, as determined by the Secretary.

''(3) ELIGIBILITY.—Producers on a farm who have entered into a market transition contract shall be eligible to receive market transition payments if the producers comply with the conservation compliance plan for the farm and applicable wetland protection requirements, as determined by the Secretary.

''(f) PLANTING FLEXIBILITY.—Producers on a farm who possess 1 or more crop acreage bases shall plant any crop or conserving crop on the acreage base to receive a market transition payment. If a perennial conserving crop is planted, the producers shall not be required to replant the crop in the subsequent year.

''(g) PAYMENT LIMITATION.—

''(1) AMOUNT.—The total amount of payments made to a person under a market transition contract for any year may not exceed $50,000.

''(2) ATTRIBUTION.—The Secretary shall attribute payments to a natural person in proportion to the ownership interests of the person in a corporation, limited partnership, or other entity (as determined by the Secretary).

''(3) SCHEME OR DEVICE.—If the Secretary determines that a person has knowingly adopted a material scheme or device to obtain market transition payments to which the person is not entitled, has evaded the requirements of this section, or has acted with the purpose of evading the requirements of this section, the person shall be ineligible to receive all payments applicable to the crop year for which the scheme or device was adopted and the succeeding crop year. The authority provided by this paragraph shall be in addition to, and shall not supplant, the authority provided by subsection (h).

''(4) REGULATIONS.—The Secretary shall issue regulations—

''(A) defining the term 'person', as used in this subsection, in a manner that conforms, to the maximum extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308);

''(B) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the limitation established under this subsection; and

''(C) providing for the tracking of payments made or attributed to a person or entity (as determined by the Secretary) on the basis of the social security account number of the person or the employer identification number of the entity.

''(h) VIOLATION OF CONTRACT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the Secretary determines that producers on a farm are in violation of, or have violated, the conservation compliance plan for the farm or wetland protection requirements applicable to the farm, the Secretary may terminate the market transition contract with respect to the producers. On termination, the producers shall forfeit all rights to receive future payments under the contract and shall refund to the Secretary all payments received by the producers during the period of the violation with interest (as determined by the Secretary).

''(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract, the Secretary shall require the producers to—

''(A) refund to the Secretary a portion of the payments received during the period of the violation, together with interest, that is proportionate to the severity of the violation (as determined by the Secretary); or

''(B) accept a reduction in the amount of future payments that is proportionate to the severity of the violation (as determined by the Secretary).

''(i) TRANSFER OF INTEREST IN LAND SUBJECT TO CONTRACT.—

''(1) EFFECT OF TRANSFER.—Except as provided in paragraph (2), if producers on a farm who have entered into a market transition contract transfer title of the land of the farm to another person, or otherwise transfer the right to receive market transition payments, the transfer shall void the contract with the producers on the farm, effective as of the date of the transfer, unless—

''(A) the transferee of the land or the right to receive the remaining market transition payments agrees to assume all or a portion of the obligations of the contract in proportion to the transfer (as determined by the Secretary); and

''(B) the transferor agrees to transfer all or a portion of the remaining transition payments in proportion to the transfer (as determined by the Secretary).

''(2) EXCEPTION.—If a producer who is eligible for payments under a market transition contract dies, becomes incompetent, or is otherwise unable to receive the payments, the Secretary shall make the payments in accordance with regulations prescribed by the Secretary.

''SEC. 202. NONRECOURSE AND MARKETING LOANS.

''(a) DEFINITION OF COVERED COMMODITY.—In this section, the term 'covered commodity' means corn, grain sorghums, barley, oats, rye, wheat, upland cotton, extra long staple cotton, rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, and mustard seed.

''(b) NONRECOURSE LOANS.—For each of the 1996 through 2002 crops of a covered commodity, the Secretary shall make available to producers on a farm a nonrecourse commodity loan under terms and conditions prescribed by the Secretary. A nonrecourse commodity loan shall have a term of 9 months, beginning on the first day of the first month after the month in which the loan is made and may be extended at the discretion of the Secretary.

''(c) LOAN RATE.—

''(1) IN GENERAL.—The Secretary shall announce the loan rate for each covered commodity not later than the first day of the marketing year for which the loan rate is to be in effect.

''(2) CALCULATION.—The loan rate for a marketing transition loan for a crop shall be equal to 80 percent of the simple average price received by the producer for the covered commodity during the immediately preceding 5 marketing years for the commodity, excluding the year in which the average price was lowest and the year in which the average price was highest.

''(3) SIMPLE AVERAGE PRICE.—For purposes of paragraph (2), the Secretary shall determine the simple average price received by producers of a covered commodity for the immediately preceding marketing year.

''(d) MARKETING LOANS.—

''(1) IN GENERAL.—The Secretary may permit producers on a farm to repay a loan made under this section for a covered commodity at a level that is the lesser of—

''(A) the loan level; or

''(B) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

''(2) PREVAILING WORLD MARKET PRICE.—If the Secretary permits producers on a farm to repay a loan in accordance with paragraph (1), the Secretary shall prescribe by regulation—

''(A) a formula to determine the prevailing world market price for the crop of a covered commodity, adjusted to United States quality and location; and

''(B) a mechanism by which the Secretary shall announce periodically the prevailing world market price for the crop of the commodity.

''TITLE III—ADMINISTRATION

''SEC. 301. REVENUE INSURANCE.

''(a) PILOT PROGRAM.—Not later than December 31, 1996, the Secretary shall carry out a pilot program in a limited number of States or groups of States, as determined by the Secretary, under which a producer of an agricultural commodity can elect to receive revenue insurance that will ensure that the producer receives an indemnity if the producer suffers a loss of revenue, as determined by the Secretary.

''(b) NATIONAL PROGRAM.—Not later than December 31, 2000, the Secretary shall offer revenue insurance to agricultural producers at 1 or more levels of coverage that is in addition to, or in place of, catastrophic and higher levels of crop insurance.

''(c) ADMINISTRATION.—Revenue insurance under this section shall—

''(1) be offered through reinsurance arrangements with private insurance companies;

''(2) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;

''(3) be actuarily sound; and

''(4) require the payment of premiums and administrative fees by participating producers.

''SEC. 302. ADMINISTRATION.

''(a) EQUITABLE RELIEF.—

''(1) LOANS AND PAYMENTS.—Notwithstanding section 201(h), if the failure of producers on a farm to comply fully with the terms and conditions of the program conducted under titles I through III precludes the making of loans and payments, the Secretary may, notwithstanding the failure, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producers made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

''(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

''(b) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the programs authorized by title I through this title through the Commodity Credit Corporation.

''(c) ASSIGNMENT OF PAYMENTS.—Section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) shall apply to payments or loans made under title I through this title.

''(d) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under title I through this title for any farm among the producers on the farm on a fair and equitable basis.

''(e) TENANTS AND SHARECROPPERS.—In carrying out this Act, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.''.

SEC. 3. CONFORMING AMENDMENTS.

Title X of the Food Security Act of 1985 is amended by striking sections 1001, 1001A, 1001B, and 1001D (7 U.S.C. 1308 et seq.).

SEC. 4. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection and as otherwise specifically provided in this Act, this Act and the amendments made by this Act shall apply beginning with the earlier of—

(A) the 1996 crop of an agricultural commodity; or

(B) December 1, 1995.

(2) MARKET TRANSITION CONTRACT.—Title II of the Agricultural Act of 1949 (as amended by section 2(4)) shall apply as of the beginning of signup for market transition payments under section 201 of the Act.

(b) PRIOR CROPS.—

(1) IN GENERAL.—Except as otherwise specifically provided and notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect the authority of the Secretary of Agriculture to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the effective date specified in subsection (a).

(2) LIABILITY.—A provision of this Act or an amendment made by this Act shall not affect the liability of any person under any provision of law as in effect before the application of the provision in accordance with subsection (a).

By Mr. BURNS:

S. 1278. A bill to establish an education satellite loan guarantee program for communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers; to the Committee on Commerce, Science, and Transportation.

THE EDUCATIONAL SATELLITE LOAN GUARANTEE PROGRAM ACT

Mr. BURNS. Mr. President, today I introduced a bill to establish an education satellite loan guarantee program from communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers. Americans face many problems and challenges in education. From Montana to Maine, local school districts to large universities, educators are being asked to do more with less. There is overcrowding in urban areas and a lack of access to educational opportunities in many rural areas. We are being challenged as a nation, and we must react as a nation with unity of purpose. We must marshall our resources and save our children's future. Over this Nation's history, we have used good old American creativity to conquer many challenges and force new horizons. I believe that technology plays a key role in making us world leaders. In the areas of space and defense, our technological know-how has made us second to none.

We should act now to apply our same know-how to education. Whether it be through copper wire, glass, or satellites, distance learning can provide access to the vast educational resources of our Nation, regardless of wealth or geographic location. There is a crisis facing America's distance education providers and users at all levels of schooling due to shortages and price increases in satellite capacity. This crisis in the distance education field has been noted and documented by the satellite and broadcasting industries and the National Education Telecommunications Organization [NETO]. The crisis facing the educators is a lack of availability of satellite capacity and dramatically escalating costs which puts an educational institution's ability to equitably transmit instructions at high risk. We must start right here, right now, by taking advantage of the satellite technology that exist today.

More than 90 American college provide education and instruction to K–12 school districts, colleges, libraries, and students in other distant education centers, nationwide and internationally. In my own State of Montana and throughout the country from Washington State through Texas to Maine, teaches and students are receiving word that they will not have access to instruction heretofore received in science, math, language, and other special events. Rural and urban school districts, family health centers in hard-to-reach areas and rural hospitals will be immediately impacted at the start-up of the fall 1995 semester. If nothing is done to ameliorate the crisis more than 200 small education entrepreneurial communications centers are at risk

by the fall of 1996. These are communications centers in America's colleges, school districts, and education consortia which include State education and television agencies who have invested State and local taxes to create cost-effective, equitable transmission using satellite, telephone, and cable to deliver instruction and training in classrooms throughout the Nation.

For an interim solution to the crisis, Congresswoman CONSTANCE MORELLA, Congressman CEORGE E. BROWN, JR., and I have asked NASA to dedicate unused satellite capacity to the education sector as the prime users for a period up to 3 years. However, we must begin to create an adequate satellite system dedicated to education to meet the educational needs and demands of America's students, teachers, and workers for the future.

The bill introduced today will facilitate the acquisition by an appropriate nonprofit, public corporation of a communications satellite system dedicated to the transmission of instructions, education, and training programming that is not subject to preemptive use by Federal Government for purposes of national security. The bill would authorize the Secretary of Interior to carry out a loan guarantee program under which a non-profit, public corporation could borrow funds to buy or lease satellites dedicated to instructional programming. A dedicated educational satellite will allow us to address two barriers faced by those involved in distance learning via satellite. First, it will insure instructional programmers that they will be able to obtain affordable satellite transmission time without risk of preemption by commercial users. Second, it will allow educators using the programming to have one dish focused on one satellite off which they can receive at least 24 channels of instructional programming—every hour of the school year.

There is no doubt in my mind that distance learning is a growth area and that there is a role for the Federal Government in facilitating that growth. The Office of Technology Assessment's 1989 report, ''Linking for Learning: A New Course for Education'' documents the recent growth of distance learning, calling the growth in the K–12 sector dramatic. OTA anticipates this growth to continue. The National Governors' Association in 1988 found that while fewer than 10 States were promoting distance learning in 1987; 1 year later two-thirds of the States reported involvement. The NGA passed a resolution in 1988, and revised it in 1991, expressing their support for a dedicated education and public purpose satellite-based telecommunications network. Following their 1989 education summit in Charlottesville, VA where former Governor Wallace Wilkinson of Kentucky and other Governors raised with President Bush the proposal for this dedicated system, the EDSAT Institute was formed to analyze the proposal. In 1991, they issued a report entitled ''Analysis of a Proposal for an Education Satellite,'' and they found as did the OTA report, that individual States and consortiums of States are investing heavily in distance learning technologies and that the education sector is a significant market.

The organization, the National Educations Telecommunications Organization [NETO], was formed after the EDSAT Institute held seven regional meetings during the summer of 1991. Through these meetings, they recognized the need to aggregate the education market for distance learning and concluded that an education programming users organization was needed. NETO has a distinguished board of educators, public policy officials, State education agencies, and telecommunications experts who are committed to the goal of developing an integrated telecommunications system dedicated to education. The first step is what we are facilitating through Federal loan guarantees.

If this legislation passes, the Federal Government will be setting a national policy in support of a telecommunications infrastructure for distance learning. A policy that will cost the government relatively little compared to the benefits our Nation will receive through improved education and educational access. The risk to the Federal Government is minimal. The only risk the Government is assuming is the risk that the distance learning market will dissipate. I think the findings of the National Governors' Association, the OTA, and the EDSAT Institute prove highly unlikely. But I also believe that with distance learning, as with transportation and other infrastructure-dependent markets, once an infrastructure is in place the market will expand beyond our current expectations.

A dedicated satellite system will bring instructional programming which is now scattered across 12 to 15 satellites into one place in the sky. This collocation will allow educators to receive a variety of instructional programs without having to constantly reorient their satellite dish. By making the investment in a dedicated system on the front end, we are reducing distance learning costs for educators on the State and local levels. The programmers will benefit because they will be able to market their programming to a wider audience and will be guaranteed reliable satellite time at an affordable rate. A rate that will be equal no matter how much time they buy. Programmers include public schools, colleges, universities, State agencies, private sector corporations and consortiums, such as the star schools consortiums, and independents. The users will benefit because their investment in equipment to receive instructional programming may be reduced because of the technological advantages of focusing on one point in the sky. Users include primary and secondary students, college, and university students, professionals interested in continuing education, community members, and government bodies. The benefits far outweigh the costs in my mind.

A dedicated educational satellite will allow our kids to benefit from equal access to quality education. This is really just the first step. Both NETO and I believe that a telecommunications infrastructure for use by the educational sector should not be technology specific. I plan to continue pushing for passage of S. 1200 to make a national broadband fiber-optic network a reality. NETO's vision is for an integrated, nationwide telecommunications system, a transparent highway that encompasses land and space, over which educational and instructional resources can be delivered. They envision bringing together the land-based systems that are already in place, not replacing them. This is an inclusive effort, not an exclusive one. I hope that my colleagues will join me in making this a reality.

Technology has transformed every sector of our lives. It can transform education as well. It will not replace teachers, it will empower them with better teaching tools. It will inspire our young people to actively engage in their education. It will expose them to the world around them and broaden their horizons. Our Nation's children deserve no less.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1278

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

SECTION 1. PURPOSE.

It is the purpose of this Act to facilitate the acquisition of a dedicated communications satellite system on which instruction, education, and training programming can be collocated and free from preemption.

SEC. 2. EDUCATIONAL SATELLITE LOAN GUARANTEE PROGRAM.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Commerce may carry out a program to guarantee any lender against loss of principal or interest on a loan described in subsection (b) made by such lender to a nonprofit, public corporation that—

(A) is recognized for expertise in governing and operating educational and instructional telecommunications in schools, colleges, libraries, State agencies, workplaces, and other distant education centers;

(B) was in existence as of January 1, 1992;

(C) the charter of which is designed for affiliation with Federal, State, and local educational and instructional institutions and agencies, and other distant education and instructional resource providers;

(D) has a governing board that includes members representing elementary and secondary education, community and State colleges, universities, elected officials, and the private sector; and

(E) has as its sole purpose the acquisition and operation of an integrated communications satellite system and other telecommunications facilities dedicated to transmitting instruction, education, and training programming.

(2) INTERIM ACQUISITION OF TRANSPONDER CAPACITY.—As an interim measure to acquire a communications satellite system dedicated to instruction, education, and training programming, a corporation that meets the requirements of paragraph (1) may acquire unused satellite transponder capacity owned or leased by a department or agency of the Federal Government or unused satellite transponder capacity owned or leased by a non-Federal broadcast organization for reuse by schools, colleges, community colleges, universities, State agencies, libraries, and other distant education centers at competitive, low costs, subject only to preemption for national security purposes.

(3) ENCOURAGEMENT OF INTERCONNECTIVITY.—A corporation that meets the requirements of paragraph (1) shall encourage the interconnectivity of elementary and secondary schools, colleges, and community colleges, universities, State agencies, libraries, and other distant education centers with ground facilities and services of United States domestic common carriers and international common carriers and ground facilities and services of satellite, cable, and other private communications systems in order to ensure technical compatibility and interconnectivity of the space segment with existing communications facilities in the United States and foreign countries to best serve United States education, instruction, and training needs and to achieve cost-effective, interoperability for friendly end-user, ''last mile'' access and use.

(4) TECHNICAL AND TRAINING NEEDS.—A corporation that meets the requirements of paragraph (1) shall determine the technical and training needs of educations users and providers to facilitate coordinated and efficient use of a communications satellite system dedicated to instruction, education, and training to further unlimited access for schools, colleges, community colleges, universities, State agencies, libraries, and other distant education centers.

(b) ELIGIBLE LOANS.—The Secretary of Commerce may guarantee a loan under this section only if—

(1) the corporation described in subsection (a)(1) has—

(A) investigated all practical means of acquiring a communications satellite system;

(B) reported to the Secretary the findings of such investigation; and

(C) identified for acquisition the most cost-effective, high-quality communications satellite system to meet the purpose of this Act; and

(2) the proceeds of such loan are used solely to acquire and operate a communications satellite system dedicated to transmitting instruction, education, and training programming.

(c) LOAN GUARANTEE LIMITATIONS.—The Secretary of Commerce may not guarantee more than $270,000,000 in loans under the program under this section, of which—

(1) not more than $250,000,000 shall be for the guarantee of such loans the proceeds of which are used to acquire a communications satellite system; and

(2) not more than $20,000,000 shall be used for the guarantee of such loans the proceeds of which are used to pay the costs of not more than 4 years of operating and management expenses associated with providing integrated communications satellite system services through the integrated communications satellite system referred to in subsection (a)(1)(E).

(d) LIQUIDATION OR ASSIGNMENT.—

(1) IN GENERAL.—In order for a lender to receive a loan guarantee under this section the lender shall agree to assign to the United States any right or interest in the communications satellite system or communications satellite system services that such lender possesses upon payment by the Secretary of Commerce on such loan guarantee.

(2) DISPOSITION.—The Secretary may exercise, retain, or dispose of any right or interest acquired pursuant to paragraph (1) in any manner that the Secretary considers appropriate.

(e) SPECIAL RULE.—Any loan guarantee under this section shall be guaranteed with full faith and credit of the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out this section.

(g) DEFINITIONS.—In this section:

(1) The term ''acquire'' includes acquisition through lease, purchase, or donation.

(2) The term ''communications satellite system'' means one or more communications satellites capable of providing service from space, including transponder capacity, on such satellite or satellites.

(3) The term ''national security preemption'' means preemption by the Federal Government for national security purposes.

Mr. DOLE (for himself, Mr. HATCH, Mr. ABRAHAM, Mr. KYL, Mr. REID, Mr. SPECTER, Mrs. HUTCHISON, Mr. THURMOND, Mr. SANTORUM, Mr. BOND, Mr. D'AMATO, and Mr. GRAMM):

S. 1279. A bill to provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes; to the Committee on the Judiciary.

THE PRISON LITIGATION REFORM ACT OF 1995

Mr. DOLE. Mr. President, I am pleased to join today with my distinguished colleagues, Senators HATCH, KYL, ABRAHAM, HUTCHISON, REID, THURMOND, SPECTER, SANTORUM, D'AMATO, GRAMM, and BOND, in introducing the Prison Litigation Reform Act of 1995.

This legislation is a new and improved version of S. 866, which I introduced earlier this year to address the alarming explosion in the number of frivolous lawsuits filed by State and Federal prisoners. It also builds on the stop-turning-out-prisoners legislation, championed by Senators KAY BAILEY HUTCHISON and SPENCER ABRAHAM, by making it much more difficult for Federal judges to issue orders directing the release of convicted criminals from prison custody.

INMATE LITIGATION

Unfortunately, the litigation explosion now plaguing our country does not stop at the prison gate. According to Enterprise Institute scholar Walter Berns, the number of ''due-process and cruel and unusual punishment'' complaints filed by prisoners has grown astronomically—from 6,600 in 1975 to more than 39,000 in 1994. These suits can involve such grievances as insufficient storage locker space, a defective haircut by a prison barber, the failure of prison officials to invite a prisoner to a pizza party for a departing prison employee, and yes, being served chunky peanut butter instead of the creamy variety. The list goes on and on.

These legal claims may sound farfetched, almost funny, but unfortunately, prisoner litigation does not operate in a vacuum. Frivolous lawsuits filed by prisoners tie up the courts, waste valuable legal resources, and affect the quality of justice enjoyed by law-abiding citizens. The time and money spent defending these cases are clearly time and money better spent prosecuting violent criminals, fighting illegal drugs, or cracking down on consumer fraud.

The National Association of Attorneys General estimates that inmate civil rights litigation costs the States more than $81 million each year. Of course, most of these costs are incurred defending lawsuits that have no merit whatsoever.

Let me be more specific. According the Arizona Attorney General Grant Woods, a staggering 45 percent of the civil cases filed in Arizona's Federal courts last year were filed by State prisoners. That means that 20,000 prisoners in Arizona filed almost as many cases as Arizona's 3.5 million law-abiding citizens. And most of these prisoner lawsuits were filed free of charge. No court costs. No filing fees. This is outrageous and it must stop.

GARNISHMENT

Mr. President, I happen to believe that prisons should be just that—prisons, not law firms. That is why the Prison Litigation Reform Act proposes several important reforms that would dramatically reduce the number of meritless prisoner lawsuits.

For starters, the act would require inmates who file lawsuits to pay the full amount of their court fees and other costs.

Many prisoners filing lawsuits today in Federal court claim indigent status. As indigents, prisoners are generally not required to pay the fees that normally accompany the filing of a lawsuit. In other words, there is no economic disincentive to going to court.

The Prison Litigation Reform Act would change this by establishing a garnishment procedure: If a prisoner is unable to fully pay court fees and other costs at the time of filing a lawsuit, 20 percent of the funds in his trust account would be garnished for this purpose. Every month thereafter, an additional 20 percent of the income credited to the prisoner's account would be garnished, until the full amount of the court fees and costs are paid-off.

When average law-abiding citizens file a lawsuit, they recognize that there could be an economic downside to going to court. Convicted criminals should not get preferential treatment: If a law-abiding citizen has to pay the costs associated with a lawsuit, so too should a convicted criminal.

In addition, when prisoners know that they will have to pay these costs—perhaps not at the time of filing, but

eventually—they will be less inclined to file a lawsuit in the first place.

JUDICIAL SCREENING

Another provision of the Prison Litigation Reform Act would require judicial screening, before docketing, of any civil complaint filed by a prisoner seeking relief from the Government. This provision would allow a Federal judge to immediately dismiss a complaint if either of two conditions is met: First, the complaint does not state a claim upon which relief may be granted, or second, the defendant is immune from suit.

OTHER REFORMS

The Prison Litigation Reform Act would also allow Federal courts to revoke any good-time credits accumulated by a prisoner who files a frivolous suit. It requires State prisoners to exhaust all administrative remedies before filing a lawsuit in Federal court. And it prohibits prisoners from suing the Government for mental or emotional injury, absent a prior showing of physical injury.

If enacted, all of these provisions would go a long way to take the frivolity out of frivolous inmate litigation.

STOP TURNING OUT PRISONERS

The second major section of the Prison Litigation Reform Act establishes some tough new guidelines for Federal courts when evaluating legal challenges to prison conditions. These guidelines will work to restrain liberal Federal judges who see violations on constitutional rights in every prisoner complaint and who have used these complaints to micromanage State and local prison systems.

Perhaps the most pernicious form of judicial micromanagement is the so-called prison population cap.

In 1993, for example, the State of Florida put 20,000 prisoners on early release because of a prison cap order issued by a Federal judge who thought the Florida system was overcrowded and thereby inflected cruel and unusual punishment on the State's prisoners.

And, then, there's the case of Philadelphia, where a court-ordered prison cap has put thousands of violent criminals back on the city's streets, often with disastrous consequences. As Pro. John Diiulio has pointed out: ''Federal Judge Norma Shapiro has singlehandedly decriminalized property and drug crimes in the City of Brotherly Love * * * Judge Shapiro has done what the city's organized crime bosses never could; namely, turn the town into a major drug smuggling port.''

By establishing tough new conditions that a Federal court must meet before issuing a prison cap order, this bill will help slam-shut the revolving prison door.

CONCLUSION

Finally, Mr. President, I want to express my special thanks to Arizona Attorney General Grant Woods and to the National Association of Attorneys General. Their input these past several months has been invaluable as we have attempted to draft a better, more effective piece of legislation.

Mr. President, I ask unanimous consent that the full text of the Prison Litigation Reform, as well as a letter from the National Association of Attorneys General and a section-by-section summary, be reprinted in the RECORD.

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

S. 1279

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 ''Prison Litigation Reform Act of 1995''.

SEC. 2. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

''§ 3626. Appropriate remedies with respect to prison conditions

''(a) REQUIREMENTS FOR RELIEF.—

''(1) PROSPECTIVE RELIEF.—(A) Prospective relief in any civil action with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

''(B) Nothing in this section shall be construed to authorize the courts, in exercising their remedial powers, to order the construction of prisons or the raising of taxes, or to repeal or detract from otherwise applicable limitations on the remedial powers of the courts.

''(2) PRELIMINARY INJUNCTIVE RELIEF.—In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. Preliminary injunctive relief shall automatically expire on the date that is 90 days after its entry, unless the court makes the findings required under subsection (a)(1) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

''(3) PRISONER RELEASE ORDER.—(A) In any civil action with respect to prison conditions, no prisoner release order shall be entered unless—

''(i) a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order; and

''(ii) the defendant has had a reasonable amount of time to comply with the previous court orders.

''(B) In any civil action in Federal court with respect to prison conditions, a prisoner release order shall be entered only by a three-judge court in accordance with section 2284 of title 28, if the requirements of subparagraph (E) have been met.

''(C) A party seeking a prisoner release order in Federal court shall file with any request for such relief, a request for a three-judge court and materials sufficient to demonstrate that the requirements of subparagraph (A) have been met.

''(D) If the requirements under subparagraph (A) have been met, a Federal judge before whom a civil action with respect to prison conditions is pending who believes that a prison release order should be considered may sua sponte request the convening of a three-judge court to determine whether a prisoner release order should be entered.

''(E) The court shall enter a prisoner release order only if the court finds—

''(i) by clear and convincing evidence—

''(I) that crowding is the primary cause of the violation of a Federal right; and

''(II) that no other relief will remedy the violation of the Federal right; and

''(ii) by a preponderance of the evidence—

''(I) that crowding has deprived a particular plaintiff or plaintiffs of at least one essential, identifiable human need; and

''(II) that prison officials have acted with obduracy and wantonness in depriving the particular plaintiff or plaintiffs of the one essential, identifiable human need caused by the crowding.

''(F) Any State or local official or unit of government whose jurisdiction or function includes the prosecution or custody of persons who may be released from, or not admitted to, a prison as a result of a prisoner release order shall have standing to oppose the imposition or continuation in effect of such relief and to seek termination of such relief, and shall have the right to intervene in any proceeding relating to such relief.

''(b) TERMINATION OF RELIEF.—

''(1) TERMINATION OF PROSPECTIVE RELIEF.—(A) In any civil action with respect to prison conditions in which prospective relief is ordered, such relief shall be terminable upon the motion of any party—

''(i) 2 years after the date the court granted or approved the prospective relief;

''(ii) 1 year after the date the court has entered an order denying termination of prospective relief under this paragraph; or

''(iii) in the case of an order issued on or before the date of enactment of the Prison Litigation Reform Act, 2 years after such date of enactment.

''(B) Nothing in this section shall prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subparagraph (A).

''(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervener shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

''(3) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation.

''(4) TERMINATION OR MODIFICATION OF RELIEF.—Nothing in this section shall prevent any party from seeking modification or termination before the relief is terminable under paragraph (1) or (2), to the extent that modification or termination would otherwise be legally permissible.

''(c) SETTLEMENTS.—

''(1) CONSENT DECREES.—In any civil action with respect to prison conditions, the court shall not enter or approve a consent decree unless it complies with the limitations on relief set forth in subsection (a).

''(2) PRIVATE SETTLEMENT AGREEMENTS.—(A) Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with the limitations on relief set forth in subsection (a), if the terms of that agreement are not subject to court enforcement other than the reinstatement of the civil proceeding that the agreement settled.

''(B) Nothing in this section shall preclude any party claiming that a private settlement agreement has been breached from seeking in State court any remedy for breach of contract available under State law.

''(d) STATE LAW REMEDIES.—The limitations on remedies in this section shall not apply to relief entered by a State court based solely upon claims arising under State law.

''(e) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

''(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

''(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

''(A)(i) beginning on the 30th day after such motion is filed, in the case of a motion made under paragraph (1) or (2) of subsection (b); or

''(ii) beginning on the 180th day after such motion is filed, in the case of a motion made under subsection (b)(4); and

''(B) ending on the date the court enters a final order ruling on the motion.

''(f) SPECIAL MASTERS.—

''(1) IN GENERAL.—(A) In any civil action in a Federal court with respect to prison conditions, the court may appoint a disinterested and objective special master, who will give due regard to the public safety, to conduct hearings on the record and prepare proposed findings of fact.

''(B) The court shall appoint a special master under this subsection during the remedial phase of the action only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

''(2) APPOINTMENT.—(A) If the court determines that the appointment of a special master is necessary, the court shall request that the defendant institution and the plaintiff each submit a list of not more than 5 persons to serve as a special master.

''(B) Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

''(C) The court shall select the master from the persons remaining on the list after the operation of subparagraph (B).

''(3) INTERLOCUTORY APPEAL.—Any party shall have the right to an interlocutory appeal of the judge's selection of the special master under this subsection, on the ground of partiality.

''(4) COMPENSATION.—The compensation to be allowed to a special master under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A for payment of court-appointed counsel, plus costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Federal Judiciary.

''(5) REGULAR REVIEW OF APPOINTMENT.—In any civil action with respect to prison conditions in which a special master is appointed under this subsection, the court shall review the appointment of the special master every 6 months to determine whether the services of the special master continue to be required under paragraph (1). In no event shall the appointment of a special master extend beyond the termination of the relief.

''(6) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

''(A) shall make any findings based on the record as a whole;

''(B) shall not make any findings or communications ex parte; and

''(C) may be removed at any time, but shall be relieved of the appointment upon the termination of relief.

''(g) DEFINITIONS.—As used in this section—

''(1) the term 'consent decree' means any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but dues not include private settlements;

''(2) the term 'civil action with respect to prison conditions' means any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison, but does not include habeas corpus proceedings challenging the fact or duration of confinement in prison;

''(3) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program;

''(4) the term 'prisoner release order' includes any order, including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or nonadmission of prisoners to a prison;

''(5) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

''(6) the term 'private settlement agreement' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled;

''(7) the term 'prospective relief' means all relief other than compensatory monetary damages; and

''(8) the term 'relief' means all relief in any form that may be granted or approved by the court, and includes consent decrees but does not include private settlement agreements.''.

(b) APPLICATION OF AMENDMENT.—

(1) IN GENERAL.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all prospective relief whether such relief was originally granted or approved before, on, or after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—Subsections (b) and (d) of section 20409 of the Violent Crime Control and Law Enforcement Act of 1994 are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended to read as follows:

''3626. Appropriate remedies with respect to prison conditions.''.

SEC. 3. AMENDMENTS TO CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) INITIATION OF CIVIL ACTIONS.—Section 3(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) (referred to in this section as the ''Act'') is amended to read as follows:

''(c) The Attorney General shall personally sign any complaint filed pursuant to this section.''.

(b) CERTIFICATION REQUIREMENTS.—Section 4 of the Act (42 U.S.C. 1997b) is amended—

(1) in subsection (a)—

(A) by striking ''he'' each place it appears and inserting ''the Attorney General''; and

(B) by striking ''his'' and inserting ''the Attorney General's''; and

(2) by amending subsection (b) to read as follows:

''(b) The Attorney General shall personally sign any certification made pursuant to this section.''.

(c) INTERVENTION IN ACTIONS.—Section 5 of the Act (42 U.S.C. 1997c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''he'' each place it appears and inserting ''the Attorney General''; and

(B) by amending paragraph (2) to read as follows:

''(2) The Attorney General shall personally sign any certification made pursuant to this section.''; and

(2) by amending subsection (c) to read as follows:

''(c) The Attorney General shall personally sign any motion to intervene made pursuant to this section.''.

(d) SUITS BY PRISONERS.—Section 7 of the Act (42 U.S.C. 1997e) is amended to read as follows:

''SEC. 7. SUITS BY PRISONERS.

''(a) APPLICABILITY OF ADMINISTRATIVE REMEDIES.—No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

''(b) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE GRIEVANCE PROCEDURE.—The failure of a State to adopt or adhere to an administrative grievance procedure shall not constitute the basis for an action under section 3 or 5 of this Act.

''(c) DISMISSAL.—(1) The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious.

''(2) In the event that a claim is, on its face, frivolous or malicious, the court may dismiss the underlying claim without first requiring the exhaustion of administrative remedies.

''(d) ATTORNEY'S FEES.—(1) In any action brought by a prisoner who is confined to any jail, prison, or other correctional facility, in which attorney's fees are authorized under section 2 of the Revised Statutes of the United States (42 U.S.C. 1988), such fees shall not be awarded, except to the extent that—

''(A) the fee was directly and reasonably incurred in proving an actual violation of the plaintiff's rights protected by a statute pursuant to which a fee may be awarded under section 2 of the Revised Statutes; and

''(B) the amount of the fee is proportionately related to the court ordered relief for the violation.

''(2) Whenever a monetary judgment is awarded in an action described in paragraph (1), a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's fees is greater than 25 percent of the judgment, the excess shall be paid by the defendant.

''(3) No award of attorney's fees in an action described in paragraph (1) shall be based

on an hourly rate greater than the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel.

''(4) Nothing in this subsection shall prohibit a prisoner from entering into an agreement to pay an attorney's fee in an amount greater than the amount authorized under this subsection, if the fee is paid by the individual rather than by the defendant pursuant to section 2 of the Revised Statutes of the United States (42 U.S.C. 1988).

''(e) LIMITATION ON RECOVERY.—No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

''(f) HEARING LOCATION.—To the extent practicable, in any action brought with respect to prison conditions in Federal court pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other law, by a prisoner confined in any jail, prison, or other correctional facility, pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted—

''(1) at the facility; or

''(2) by telephone or video conference without removing the prisoner from the facility in which the prisoner is confined.

Any State may adopt a similar requirement regarding hearings in such actions in that State's courts.

''(g) WAIVER OF REPLY.—(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) or any other law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

''(2) The court may, in its discretion, require any defendant to reply to a complaint commenced under this section.

''(h) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.''.

(e) REPORT TO CONGRESS.—Section 8 of the Act (42 U.S.C. 1997f) is amended by striking ''his report'' and inserting ''the report''.

(f) NOTICE TO FEDERAL DEPARTMENTS.—Section 10 of the Act (42 U.S.C. 1997h) is amended—

(1) by striking ''his action'' and inserting ''the action''; and

(2) by striking ''he is satisfied'' and inserting ''the Attorney General is satisfied''.

SEC. 4. PROCEEDINGS IN FORMA PAUPERIS.

(a) FILING FEES.—Section 1915 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''(a) Any'' and inserting ''(a)(1) Subject to subsection (b), any'';

(B) by striking ''and costs'';

(C) by striking ''makes affidavit'' and inserting ''submits an affidavit'';

(D) by striking ''such costs'' and inserting ''such fees'';

(E) by striking ''he'' each place it appears and inserting ''the person'';

(F) by adding immediately after paragraph (1), the following new paragraph:

''(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.''; and

(G) by striking ''An appeal'' and inserting ''(3) An appeal'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection:

''(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess, and when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

''(A) the average monthly deposits to the prisoner's account; or

''(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

''(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid.

''(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

''(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.'';

(4) in subsection (c), as redesignated by paragraph (2), by striking ''subsection (a) of this section'' and inserting ''subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b)''; and

(5) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

''(e)(1) The court may request an attorney to represent any person unable to afford counsel.

''(2) Notwithstanding any filing fee that may have been paid, the court shall dismiss the case at any time if the court determines that—

''(A) the allegation of poverty is untrue; or

''(B) the action or appeal—

''(i) is frivolous or malicious; or

''(ii) fails to state a claim on which relief may be granted.''.

(b) COSTS.—Section 1915(f) of title 28, United States Code (as redesignated by subsection (a)(2)), is amended—

(1) by striking ''(f) Judgment'' and inserting ''(f)(1) Judgment'';

(2) by striking ''cases'' and inserting ''proceedings''; and

(3) by adding at the end the following new paragraph:

''(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

''(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

''(C) In no event shall the costs collected exceed the amount of the costs ordered by the court.''.

(c) SUCCESSIVE CLAIMS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(g) In no event shall a prisoner in any prison bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious bodily harm.''.

(d) DEFINITION.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(h) As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.''.

SEC. 5. JUDICIAL SCREENING.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1915 the following new section:

''§ 1915A. Screening

''(a) SCREENING.—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

''(b) GROUNDS FOR DISMISSAL.—On review, the court shall dismiss the complaint, or any portion of the complaint, if the complaint—

''(1) fails to state a claim upon which relief may be granted; or

''(2) seeks monetary relief from a defendant who is immune from such relief.

''(c) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915 the following new item:

''1915A. Screening.''.

SEC. 6. FEDERAL TORT CLAIMS.

Section 1346(b) of title 28, United States Code, is amended—

(1) by striking ''(b)'' and inserting ''(b)(1)''; and

(2) by adding at the end the following:

''(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.''.

SEC. 7. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1932. Revocation of earned release credit

''In any civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of such earned good time credit under section 3624(b) of title 18,

United States Code, that has not yet vested, if, on its own motion or the motion of any party, the court finds that—

''(1) the claim was filed for a malicious purpose;

''(2) the claim was filed solely to harass the party against which it was filed; or

''(3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1931 the following:

''1932. Revocation of earned release credit.''.

(c) AMENDMENT OF SECTION 3624 OF TITLE 18.—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the first sentence;

(B) in the second sentence—

(i) by striking ''A prisoner'' and inserting ''Subject to paragraph (2), a prisoner'';

(ii) by striking ''for a crime of violence,''; and

(iii) by striking ''such'';

(C) in the third sentence, by striking ''If the Bureau'' and inserting ''Subject to paragraph (2), if the Bureau'';

(D) by striking the fourth sentence and inserting the following: ''In awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree.''; and

(E) in the sixth sentence, by striking ''Credit for the last'' and inserting ''Subject to paragraph (2), credit for the last''; and

(2) by amending paragraph (2) to read as follows:

''(2) Notwithstanding any other law, credit awarded under this subsection after the date of enactment of the Prison Litigation Reform Act shall vest on the date the prisoner is released from custody.''.

PRISON LITIGATION REFORM ACT OF 1995—SECTION SUMMARY

Section 1: Short Title:

Entitles the Act as the ''Prison Litigation Reform Act of 1995.''

Section 2: Appropriate Remedies for Prison Conditions:

This section limits the remedies available to federal courts in suits challenging conditions of confinement and defines the procedures for seeking, enforcing, and terminating remedial relief in these cases. Highlights include appointment of a special 3-judge panel to consider any order that would impose a population cap on a prison or jail.

Prospective relief in prison conditions cases would not be allowed to extend any further than necessary to correct the violation of a federal right of an identifiable plaintiff. Federal courts would have to ensure that the relief is narrowly drawn and that it is the least intrusive means of correcting the violation, giving substantial weight to any adverse impact the relief might have on public safety.

Preliminary injunctive relief would expire after 90 days, unless made final before that date.

No prison population cap could be imposed unless:

(a) the court had previously entered an order for a less intrusive remedy that, after sufficient time for implementation, failed to correct the violation of the federal right; and

(b) a 3-judge panel finds by clear and convincing evidence that crowding is the primary cause of the violation and no other relief will remedy it, and finds by a preponderance of the evidence that crowding has deprived an identifiable plaintiff of an essential human need.

Public officials whose function includes the prosecution or custody of persons who could be released from, or not admitted to, a prison or jail as a result of a population cap would have standing to challenge the imposition or continuation of such a cap.

Prosective relief granted in conditions of confinement cases may be terminated on the motion of either party unless the court finds, based on the record, that the relief remains necessary to correct a current, ongoing violation of a federal right, and that the relief extends no further than necessary, is narrowly drawn, and is the least intrusive means to correct the violation of the right.

Federal court approval of consent decrees would be subject to the same limitations. Private settlements and remedies under state law would be unaffected.

The court would be required to rule promptly on any motion to modify or terminate prospective relief. After 30 days, an automatic stay on the prospective relief would apply during the pendency of the motion.

Courts would be authorized to employ an impartial special master for the preparation of proposed findings of fact in the remedial phase of complex prison conditions cases. The special master would be appointed from lists submitted by both parties, and would be compensated at a rate no higher than that for federal court-appointed counsel. The appointment would be reviewed every 6 months, and would lapse at the termination of the prospective relief. The special master's findings would be required to be on the record, and no ex parte findings or communications would be permitted.

Section 3: Amendments to Civil Rights of Institutionalized Persons Act (CRIPA):

Subsections (a) through (c): Technical amendments concerning references to the Attorney General.

Subsection (d): Suits by Prisoners.

This subsection rewrites Section 7 of CRIPA (42 U.S.C. 1997e), which is currently limited to provisions related to administrative remedies in connection with inmate lawsuits, to establish broader standards to govern suits filed by prisoners.

Requires inmates' administrative remedies be exhausted prior to the filing of a suit in federal court; removes requirement that state administrative remedies be certified by the Attorney General of the United States. Retains provision of current law stating that the absence of administrative remedies by itself does not provide the Attorney General with grounds to bring or intervene in a suit against a state or local prison.

Permits the court to dismiss, without hearing, inmate suits that are frivolous or malicious.

Limits attorney's fees that may be awarded to successful inmate plaintiffs. Fees must be directly and reasonably incurred in proving an actual violation of a plaintiff's rights, and would be based on an hourly rate no higher than that for other federal court appointed counsel. Also requires that up to 25% of a plaintiff's monetary judgement be applied towards attorney's fees.

Limits prisoner suits in federal court for mental or emotional injury to instances where the plaintiff shows physical injury as well.

Provides that in civil suits brought by a prisoner, any pretrial proceedings in which the prisoner must or may participate may be conducted at the prison or jail, by teleconference, or by videoconference whenever practicable.

Permits the defendant in a prisoner-initiated suit to waive reply without default, unless the reply is required by the court.

Subsections (e) and (f): Technical amendments concerning references to the Attorney General.

Section 4: Proceedings In Forma Pauperis:

This section reforms the filing of suits in forma pauperis by prisoners.

Requires an inmate seeking to file in forma pauperis to submit to the court a certified copy of the inmate's prison trust fund account.

Requires prisoners seeking to file in forma pauperis to pay, in installments, the full amount of filing fees, unless the prisoner has absolutely no assets.

Provides for appointed counsel for indigent in forma pauperis litigants, and requires the court to dismiss a suit filed in forma pauperis if the allegation of poverty is untrue, or if the suit is frivolous or malicious.

Requires payment of costs by unsuccessful prisoner litigants in the same manner as filing fees, if the judgment against the prisoner includes costs.

Prohibits, except in narrow circumstances, the filing of an in forma pauperis suit by a prisoner, who, on at least 3 prior occasions, has brought a suit that was dismissed because it was frivolous, malicious, or failed to state a claim upon which relief could be granted.

Section 5: Judicial Screening:

Requires judicial pre-screening of prisoner suits against government entities or employees; requires dismissal of suits which fail to state a claim upon which relief can be granted, or which seek monetary damages from an immune defendant.

Section 6: Federal Tort Claims:

Limits prisoner suits against the federal government for mental or emotional injury under the Federal Tort Claims Act to instances where the plaintiff shows physical injury as well.

Section 7: Earned Release Credit or Good Time Credit Revocation:

Reforms provisions governing the awarding of ''good time'' credit in the federal prison system.

Subsections (a) and (b): Permits a federal court to order the revocation of a federal prisoner's good time credit as a sanction for the filing of malicious or harassing claims, or for the knowing presentation of false evidence to the court.

Subsection (c): Revises present ''good time'' statute.

Requires exemplary adherence to prison rules by all prisoners in order to qualify for good time credit and permits Bureau of Prisons to award partial credit at its option.

Provides that progress toward a high school equivalency degree should be a factor for consideration in awarding good time credit.

Provides that future awards of good time credit will not vest prior to the prisoner's actual release date. Returns to the standard that applied prior to the enactment of the Sentencing Reform Act of 1986.

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,

Washington, DC, September 19, 1995.

Re Frivolous Inmate Litigation: Proposed Amendment to the Commerce, Justice, State Appropriations Bill.

Hon. BOB DOLE,

Senate Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: We write on behalf of the Inmate Litigation Task Force of the National Association of Attorneys General to express our strong support for the Prison Litigation Reform Act, which we understand you intend to offer as an amendment to the Appropriations Bill for Commerce, Justice, State and Related Agencies. As you know, the issue of frivolous inmate litigation has been a major priority of this Association for a number of years. Although a number of states—including our own—have enacted

state legislation to address this issue, the states alone cannot solve this problem because the vast majority of these suits are brought in federal courts under federal laws. We thank you for recognizing the importance of federal legislation to curb the epidemic of frivolous inmate litigation that is plaguing this country.

Although numbers are not available for all of the states, 33 states have estimated that together inmate civil rights suits cost them at least $54.5 million annually. Extrapolating this figure to all 50 states, we estimate that inmate civil rights suits cost states at least $81.3 million per year. Experience at both the federal and state level suggests that, while all of these cases are not frivolous, more than 95 percent of inmate civil rights suits are dismissed without the inmate receiving anything. Although occasional meritorious claims absorb state resources, nonetheless, we believe the vast majority of the $81.3 million figure is attributable to the non-meritorious cases.

We have not had an opportunity to discuss the specifics of the amendment with every Attorney General, however, we are confident that they would concur in our view that this amendment will take us a long way toward curing the vexatious and expensive problem of frivolous inmate lawsuits. Thank you again for championing this important issue, along with Senators Hatch, Kyl, Reid and others, as it is a top priority for virtually every Attorney General. Your leadership on this issue and your continued commitment to this common sense legal reform is very important to us and our colleagues.

Sincerely,

FRANKIE SUE DEL PAPA,
Attorney General of Nevada, Chair, NAAG Inmate Litigation Task Force.
DANIEL E. LUNGREN,
Attorney General of California, Chair, NAAG Criminal Law Committee,
GRANT WOODS,
Attorney General of Arizona, Vice-Chair, NAAG Inmate Litigation Task Force,
JEREMIAH W. NIXON,
Attorney General of Missouri, Vice-Chair, NAAG Criminal Law Committee.

Mr. HATCH. Mr. President, I am pleased to be joined by the majority leader and Senators KYL, ABRAHAM, REID, THURMOND, SPECTER, HUTCHISON, D'AMATO, SANTORUM, and GRAMM in introducing the Prison Litigation Reform Act of 1995. This landmark legislation will help bring relief to a civil justice system overburdened by frivolous prisoner lawsuits. Jailhouse lawyers with little else to do are tying our courts in knots with an endless flood of frivolous litigation.

Our legislation will also help restore balance to prison conditions litigation and will ensure that Federal court orders are limited to remedying actual violations of prisoners' rights, not letting prisoners out of jail. It is past time to slam shut the revolving door on the prison gate and to put the key safely out of reach of overzealous Federal courts.

As of January 1994, 24 corrections agencies reported having court-mandated population caps. Nearly every day we hear of vicious crimes committed by individuals who should have been locked up. Not all of these tragedies are the result of court-ordered population caps, of course, but such caps are a part of the problem. While prison conditions that actually violate the Constitution should not be allowed to persist, I believe that the courts have gone too far in micromanaging our Nation's prisons.

Our legislation also addresses the flood of frivolous lawsuits brought by inmates. In 1994, over 39,000 lawsuits were filed by inmates in Federal courts, a staggering 15 percent increase over the number filed the previous year. The vast majority of these suits are completely without merit. Indeed, roughly 94.7 percent are dismissed before the pretrial phase, and only a scant 3.1 percent have enough validity to reach trial. In my State of Utah, 297 inmate suits were filed in Federal courts during 1994, which accounted for 22 percent of all Federal civil cases filed in Utah last year. I should emphasize that these numbers do not include habeas corpus petitions or other cases challenging the inmate's conviction or sentence. The crushing burden of these frivolous suits makes it difficult for courts to consider meritorious claims.

In one frivolous case in Utah, an inmate sued demanding that he be issued Reebok or L.A. Gear brand shoes instead of the Converse brand being issued. In another case, an inmate deliberately flooded his cell, and then sued the officers who cleaned up the mess because they got his Pinochle cards wet.

It is time to stop this ridiculous waste of the taxpayers' money. The huge costs imposed on State governments to defend against these meritless suits is another kind of crime committed against law-abiding citizens.

Mr. President, this legislation enjoys broad, bipartisan support from State attorneys general across the Nation. We believe with them that it is time to wrest control of our prisons from the lawyers and the inmates and return that control to competent administrators appointed to look out for society's interests as well as the legitimate needs of prisoners. I urge my colleagues to support this bill, and look forward to securing its quick passage by the Senate.

Mr. KYL. Mr. President, special masters, who are supposed to assist judges as factfinders in complex litigation, have all too often been improperly used in prison condition cases. In Arizona, special masters have micromanaged the department of corrections, and have performed all manner of services in behalf of convicted felons, from maintaining lavish law libraries to distributing up to 750 tons of Christmas packages each year. Special masters appointed to oversee prison litigation have cost Arizona taxpayers more than $320,000 since 1992. One special master was even allowed to hire a chauffeur, at taxpayers' expense, because he said he had a bad back.

The Prison Litigation Reform Act, introduced as an amendment to the Commerce/Justice/State appropriations bill, requires the Federal judiciary, not the States, to foot the bill for special masters in prison litigation cases. Last July the Arizona legislature and Governor Symington cut off funds to special masters. It's time we take the Arizona model to the rest of the States.

The amendment also addresses prison litigation reform. Many people think of prison inmates as spending their free time in the weight room or the television lounge. But the most crowded place in today's prisons may be the law library. Federal prison lawsuits have risen from 2,000 in 1970 to 39,000 in 1994. In the words of the Third Circuit Court of Appeals, suing has because, recreational activity for long-term residents of our prisons.

Today's system seems to encourage prisoners to file with impunity. After all, it's free. And a courtroom is certainly a more hospitable place to spend an afternoon than a prison cell. Prisoners file free lawsuits in response to almost any perceived slight or inconvenience—being served chunky instead of creamy peanut butter, for instance, or being denied the use of a Gameboy video game—a case which prompted a lawsuit in my home State of Arizona.

These prisoners are victimizing society twice—first when they commit the crime that put them in prison, and second when they waste our hard-earned tax dollars while cases based on serious grievances languish on the court calendar.

In Arizona, Attorney General Grant Woods, who is here with us today, used to spend well over $1 million a year processing and defending against frivolous inmate lawsuits. But Grant successfully championed a reform bill, which went into effect last year, and the number of prison lawsuits was cut in half. Arizona prisoners still have the right to seek legal redress for meritorious claims, but the time and money once spent defending frivolous suits is now used to settle legitimate claims in a timely manner.

But the States alone cannot solve this problem. The vast majority of frivolous suits are brought in Federal courts under Federal laws—which is why I introduced the Prison Litigation Reform Act of 1995 last may with Senators DOLE and HATCH. We are incorporating that legislation into the Commerce/Justice/State amendment.

Federal prisoners are churning out lawsuits with no regard to this cost to the taxpayers or their legal merit. We can no longer ignore this abuse of our court system and taxpayers' funds. With the support of attorneys general around the country, I am confident that we will see real reform on this issue.

Mr. ABRAHAM. Mr. President, the legislation we are introducing today

will play a critical role in restoring public confidence in government's ability to protect the public safety. Moreover, it will accomplish this important purpose not by spending more taxpayer money but by saving it.

I would like to focus my remarks on the provisions addressing the proper scope of court-ordered remedies in prison conditions cases.

In many jurisdictions, including my own State of Michigan, judicial orders entered under Federal law have effectively turned control of the prison system away from elected officials accountable to the taxpayer, and over to the courts. The courts, in turn, raise the costs of running prisons far beyond what is necessary. In the process, they also undermine the legitimacy and punitive and deterrent effect of prison sentences.

Let me tell you a little bit about how this works.

Under a series of judicial decrees resulting from Justice Department suits against the Michigan Department of Corrections, the Federal courts now monitor our State prisons to determine.

First, how warm the food is; second, how bright the lights are; third, whether there are electrical outlets in each cell; fourth, whether windows are inspected and up to code; fifth, whether prisoners' hair is cut only by licensed barbers; and sixth, and whether air and water temperatures are comfortable.

This would be bad enough if a court had ever found that Michigan's prison system was at some point in violation of the Constitution, or if conditions there had been inhumane. But that is not the case.

To the contrary, nearly all of Michigan's facilities are fully accredited by the American Corrections Association. We have what may be the most extensive training program in the Nation for corrections officers. Our rate of prison violence is among the lowest of any State. And we spend an average of $4,000 a year per prisoner for health care, including nearly $1,700 for mental health services.

Rather, the judicial intervention is the result of a consent decree that Michigan entered into in 1982—13 years ago—that was supposed to end a lawsuit filed at the same time. Instead, the decree has been a source of continuous litigation and intervention by the court into the minutia of prison operations.

I think this is all wrong. People deserve to keep their tax dollars or have them spent on projects they approve. They deserve better than to have their money spent, on keeping prisoners in conditions some Federal judge feels are desirable, although not required by any provision of the Constitution or any law. And they certainly don't need it spent on defending against endless prisoner lawsuits.

Meanwhile, criminals, while they must be accorded their constitutional rights, deserve to be punished. Obviously, they should not be tortured or treated cruelly. At the same time, they also should not have all the rights and privileges the rest of us enjoy. Rather, their lives should, on the whole, be describable by the old concept known as ''hard time.''

By interfering with the fulfillment of this punitive function, the courts are effectively seriously undermining the entire criminal justice system. The legislation we are introducing today will return sanity and State control to our prison systems.

Our bill forbids courts from entering orders for prospective relief (such as regulating food temperatures) unless the order is necessary to correct violations of individual plaintiffs' Federal rights. It also requires that the relief be narrowly drawn and be the least intrusive means of protecting the Federal rights. And it directs courts to give substantial weight to any adverse impact on public safety or the operation of the criminal justice system caused by the relief.

It also provides that any party can seek to have a court decree ended after 2 years, and that the court will order it ended unless there is still a constitutional violation that needs to be corrected.

As a result, no longer will prison administration be turned over to Federal judges for the indefinite future for the slightest reason. Instead, the States will be able to run prisons as they see fit unless there is a constitutional violation, in which case a narrowly tailored order to correct the violation may be entered.

This is a balanced bill that allows the courts to step in where they are needed, but puts an end to unnecessary judicial intervention and micromanagement. I thank all my colleagues for their interest in this matter and hope we will be able to get something enacted soon.

ADDITIONAL COSPONSORS

S. 773

At the request of Mrs. KASSEBAUM, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 773, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 881

At the request of Mr. PRYOR, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 896

At the request of Mr. CHAFEE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 896, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, and for other purposes.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from Kansas [Mr. DOLE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors 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. 953

At the request of Mr. CHAFEE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black Revolutionary War patriots.

S. 955

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 955, a bill to clarify the scope of coverage and amount of payment under the medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use.

S. 1006

At the request of Mr. PRYOR, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1006, a bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes.

S. 1052

At the request of Mr. HATCH, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1052, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions and to provide for carryovers and carrybacks of unused credits.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

S. 1219

At the request of Mr. FEINGOLD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1219, a bill to reform the financing of Federal elections, and for other purposes.

AMENDMENT NO. 2784

At the request of Mr. KERRY his name was added as a cosponsor of amendment No. 2784 proposed to H.R.