managed under the laws of Texas by the Texas Natural Resource Conservation Commission and local governmental entities; and

''Whereas, Bureau of Reclamation projects in Texas were authorized by congress and constructed under contracts that require repayment of the local share of costs to the Bureau of Reclamation; and

''Whereas, the Bureau of Reclamation's current actual function is largely limited to supervision or repayment of the local share of costs; and

''Whereas, in recent years the Bureau of Reclamation's mission has shifted from water resource conservation and development to oversight and management of existing projects; and

''Whereas, the Bureau of Reclamation, in an effort to support extended oversight and management activities, has imposed fees and charges on local sponsors for services that are neither necessary nor desired; and

''Whereas, State and local governments can manage local water resource projects more economically and efficiently for the benefit of all citizens and the environment of the State of Texas without assistance from the Bureau of Reclamation; and

''Whereas, the Legislature of the State of Texas favors elimination of unfunded federal mandates, unnecessary federal bureaucracy, and elimination of federal debt; and

''Whereas, elimination of operational expenses for the Bureau of Reclamation and immediate repayment of project indebtedness due would assist in balancing the federal budget: Now, therefore, be it

Resolved, That the 74th Legislature of the State of Texas hereby endorse management of state water resource projects by state and local governmental entities created for that purpose without restraint, interference, or unsolicited assistance from the Bureau of Reclamation; and, be it further

''*Resolved,* That the Texas Water Development Board, as requested by those entities, is directed to assist local and regional entities in acquiring, either for the local entities or the state, the Bureau of Reclamation ownership interest in existing projects in Texas; and, be it further

''*Resolved,* That the Texas Legislature hereby encourage and urge congress to adopt legislation facilitating acquisition of the Bureau of Reclamation interests in existing projects in Texas by the state and local governments; and, be it further

''*Resolved,* That the Texas Secretary of State forward official copies of this resolution to the United States Department of Interior, Bureau of Reclamation, the President of the United States, the president of the senate and the speaker of the house of representatives of the United States, and all members of the Texas delegation to the congress with the request that it be officially entered in the Congressional Record as a memorial to the Congress of the United States.''

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

Ernest W. DuBester, of New Jersey, to be a Member of the National Mediation Board for a term expiring July 1, 1998.

Daniel A. Mica, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1997.

Hughey Walker, of South Carolina, to be a Member of the National Council on Disability for a term expiring September 17, 1996.

Thomas R. Bloom, of Virginia, to be Inspector General, Department of Education.

Harris Wofford, of Pennsylvania, to be Chief Executive Officer of the Corporation for National and Community Service.

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefore as provided by law and regulations:

To be assistant surgeon

Patricia A. Berry	Michael E. Toedt
Christine Casey	Catherine L. Woodhouse
Stephanie E. Markman	

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on Armed Services:

The following named officer under the provisions of title 10, United States Code, section 152, for reappointment as Chairman of the Joint Chiefs of Staff and reappointment to the grade of general while serving in that position under the provisions of title 10, United States Code, section 601(a):

CHAIRMAN OF THE JOINT CHIEFS OF STAFF

To be general

Gen. John M. Shalikashvili, 000–00–0000, U.S. Army.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. GRASSLEY (for himself and Ms. MOSELEY-BRAUN):

S. 1273. A bill to amend the Internal Revenue Code of 1986 to allow a credit for interest paid on education loans; to the Committee on Finance.

By Mr. LOTT (for himself, Mr. SIMPSON, Mr. NICKLES, and Mr. INHOFE):

S. 1274. A bill to amend the Solid Waste Disposal Act to improve management of remediation waste, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ABRAHAM (for himself, Mr. HATCH, Mr. SPECTER, Mr. KYL, and Mrs. HUTCHISON):

S. 1275. 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 (for himself and Ms. MOSELEY-BRAUN):

S. 1273. A bill to amend the Internal Revenue Code of 1986 to allow a credit for interest paid on education loans; to the Committee on Finance.

THE HIGHER EDUCATION INVESTMENT ACT OF 1995

• Mr. GRASSLEY. Mr. President, today I am introducing legislation on behalf of myself and my able colleague from Illinois, Senator MOSELEY-BRAUN. We call it the Higher Education Investment Act of 1995. We hope that this bill will launch an individual income tax credit for interest paid by young people on their student loans.

Our own young people are the ones who truly must balance the Federal budget for the long run. I believe that if we on Capitol Hill want to do our part to balance the Federal budget for the long run, then we must aid human investment in one of its highest forms: knowledge gained through education. As the U.S. Senate, with an obligation toward the national economy, we must underwrite higher education as an economic investment toward future Federal tax revenues. This bill is the workable legislative vehicle.

As a practical matter of income tax credits, the Higher Education Investment Act of 1995 provides targeted taxpayers with a credit for up to 20 percent of the interest paid during the first 5 years in which payments are required on qualified educational loans. A student taxpayer may utilize both this credit and the standard deduction. Thus, a young person, or young married couple, can utilize this credit regardless of whether they are fortunate enough to have the money to begin buying a home and enjoying its related tax benefits. In fact, we intend this bill to aid young people, who are just starting out in life, in their effort to retain enough cash so that they too can have a chance at beginning the good life that many of us from older generations have enjoyed.

As a Congress, we have been decades in saddling the next generation with the burden of paying off our national debt. At a minimum, we should allow its members a mechanism to leverage themselves to accomplish their enormous task. To earn the necessary cash flow to succeed, and to not slip into a lower standard of living that we currently enjoy, the members of the next generation must arm themselves both with knowledge and income potential. During the past decade, tuition and fees at both public and private colleges and universities have increased at rates far exceeding inflation. During the same decade we in Congress eliminated the interest deduction for student loans. Thus, we require the next generation to not only borrow more than we borrowed, we force them pay more than we paid. All of us must find it ironic that, in their efforts to settle up on our open account, which is full of our excesses, we have denied them the same tax benefitted education that we enjoyed.

The social cost is enormous. Large volumes of student loan debt steer students away from socially useful though low paying careers such as teaching, research, or public service. It curbs entrepreneurial action because entrepreneurial ventures involve risk, and large, fixed, monthly student loan repayment obligations do not lend themselves to a young person's appetite for

risk. Without this student loan interest credit, which is consistent with a progressive tax code, we will fail to invest in our most long lived and productive assets: the minds of our electorate.

Therefore, Mr. President, we challenge our colleagues to once again underwrite knowledge by first underwriting and co-sponsoring this bill.

Mr. President, I ask unanimous consent to include the bill in the RECORD.

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

S. 1273

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 ''Higher Education Investment Act of 1995''.

SEC. 2. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

''SEC. 23. INTEREST ON EDUCATION LOANS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for the taxable year shall not exceed $500 ($1,000 in the case of 2 or more individuals with qualified higher education expenses paid by any qualified education loan).

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($60,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a credit under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $15,000.

''(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

''(i) without regard to sections 135, 911, 931, and 933, and

''(ii) after application of sections 86, 219, and 469.

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1996, the $40,000 and $60,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) of subsection (1)(f)(3) shall be applied by substituting '1995' for '1992'.

''(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50 (or, if such amount is a multiple of $25, such amount shall be rounded to the next highest multiple of $50).

''(c) LIMITATION ON TAXPAYERS ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

''(d) LIMIT ON PERIOD CREDIT ALLOWED.—

''(1) TAXPAYER AND TAXPAYER'S SPOUSE.—Except as provided in paragraph (2), a credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

''(2) DEPENDENT.—If the qualified education loan was used to pay education expenses of an individual other than the taxpayer or the taxpayer's spouse, a credit shall be allowed under this section for any taxable year with respect to such loan only if—

''(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

''(B) such individual is at least a half-time student with respect to such taxable year.

''(e) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

''(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer,

''(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

''(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

''(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087*ll*, as in effect on the day before the date of the enactment of this Act) of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer at an eligible educational institution. For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

''(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

''(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.''

(b) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050P the following new section:

''SEC. 6050Q. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

''(a) EDUCATION LOAN INTEREST OF $600 OR MORE.—Any person—

''(1) who is engaged in a trade or business, and

''(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on any qualified education loan,

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name and address of the individual from whom the interest described in subsection (a)(2) was received,

''(B) the amount of such interest received for the calendar year, and

''(C) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a):

''(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

''(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

''(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

''(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return, and

''(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 23(e)(1).

''(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).''

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the

Internal Revenue Code of 1986 is amended by inserting after the item relating to section 22 the following new item:

''Sec. 23. Interest on education loans.''

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050P the following new item:

''Sec. 6050Q. Returns relating to education loan interest received in trade or business from individuals.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 23(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1995, and before the termination of the period described in section 23(d)(1) of such Code.●

By Mr. LOTT (for himself, Mr. SIMPSON, Mr. NICKLES, and Mr. INHOFE):

S. 1274. A bill to amend the Solid Waste Disposal Act to improve management of remediation waste, and for other purposes; to the Committee on Environment and Public Works.

THE REMEDIATION WASTE MANAGEMENT IMPROVEMENT ACT OF 1995

Mr. LOTT. Mr. President, since the beginning of this year, administration officials have said they both need and want more regulatory flexibility to continue achieving environmental clean up goals through the Resource Conservation and Recovery Act [RCRA].

I want to share with my colleagues several quotes. They are useful to set the stage for my legislation.

President Clinton, this past January in his State of the Union Address, said that: ''* * * we need common sense and fairness * * * and we [can] still clean up toxic waste dumps. And we ought to do it.''

President Clinton even declared on March 16th that he needs legislative reforms to: ''* * * fix provisions of RCRA * * * [to avoid] high costs and marginal environmental benefit.''

Vice-President GORE, this spring, promised that: ''* * * environmental protection * * * will protect more and cost less * * *'' in his Reinventing Government brochure.

EPA Administrator Browner, this spring, testified to our Senate's Environment and Public Works Committee that: ''* * * reform efforts are so crucial; we must meet these challenges with commonsense cost-effective measures.''

EPA's Head of the Office of Solid Waste, Mr. Shapiro, this summer, testified to the House's Commerce Subcommittee that: ''* * * we have learned [to] rely on * * * our State partners, and we have learned that flexibility is vital to our success.''

EPA, this spring, reaffirmed its commitment to permanently implement the regulatory status of petroleum contaminated media under the Underground Storage Tank Program to avoid '' * * * delays in remediation action and increases in remediation costs.''

EPA's briefing document, this summer, reported that DOD wanted cost to be factored into level of cleanups, and even OMB advocated a one-regulator cleanup approach.

The Reinventing Government brochure went on to assure that by July 15 of this year a package of rifle shot reforms would be delivered to Congress.

The administration was sending out a loud and consistent theme:

First, RCRA reforms are desired;

Second, RCRA reforms are needed this year; and

Third, RCRA reforms must be legislative.

I heard the administration's message.

Let's also recognize that Americans clearly are fed up with ineffective environmental programs that do little for clean-up, but lots for lawyers. They do not want their hard-earned tax dollars being wasted.

Thoughtful citizens are exhausted by excessive, prescriptive regulations that exaggerate risks which too often are based upon emotion rather than scientific evidence. Buzzword phrases like ''rational rules,'' ''reasonably expected scenarios,'' ''stop Federal mandates,'' and ''one-size does not fit-all'' are typical and part of everyday, commonplace dialogue from Hernando to Excatawpa, MS.

I heard the Public's message too.

Before I go any further, I want to be up-front about my goals for this legislation: First, make RCRA work faster and cheaper; Second, remove regulations that are counterproductive to cleanups; Third, streamline agency decisionmaking; and Fourth, give states authority to make decisions.

Now, I want to explain why my environmental policy reform bill just concentrates on RCRA:

True, it is a program that does not have an attention getting name, like Superfund. Some would even say it is a program with an unpronounceable name.

True, it is a program which perhaps many Americans are not aware of. But it is far more widespread then Superfund.

My colleagues need to hear a few numbers to understand why Congress needs to deal with RCRA:

There are five times as many RCRA sites as there are Superfund sites. In Mississippi there are just two Superfund sites, but there are over 40 RCRA Corrective Action Sites.

And, a respected study conducted 4 years ago reported that roughly $240 billion will be spent on RCRA remediation. As a reference point that is nearly $100 billion more than will be spent on the notorious Superfund.

RCRA is a big, albeit invisible, and expensive program that the administration wants to reform.

Well, so do I.

I have responded with a sensible, responsive and responsible legislative solution. It is not a comprehensive across-the-board reform, rather it is surgical approach which targets just a few specific problem areas. The administration calls it rifle-shot legislative fixes.

My legislative solution has two basic straight-forward features which will save billions and remediate quicker all without inhibiting or lessening environmental protection:

First, it replaces inappropriate RCRA requirements originally designed to minimize the amount of routinely generated hazardous waste with a remediation action plan concept which will maximize site cleanup by empowering state regulators to make common sense cleanup decisions, and to give them authority to enforce these decisions.

Second, it codifies the regulatory status of cleanup materials ensuring the continuation of the highly successful Underground Storage Tank Corrective Action Program.

I believe it makes sense to focus this environmental reform effort to an incremental method. We need to go step-by-step making directed changes and then pausing to examine the consequences before returning with additional legislation.

That is why my bill deals with only two issues. It avoids Washington's Christmas tree mentality of loading up on numerous disconnected changes. It also sidesteps policy matters which are more appropriately handled through the upcoming Superfund reauthorization.

My legislative solution will merely tailor RCRA's regulatory process to site-specific remediation to ensure common sense, enforceable cleanup occur. I urge my colleagues to examine my proposal.

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. 1274

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

SECTION 1. REMEDIATION WASTE MANAGEMENT IMPROVEMENT.

(a) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding at the end the following:

''(42) COMPLIANCE AUTHORITY.—The term 'compliance authority' means the authority to issue, enter into, approve, enforce, and ensure compliance with a remedial action plan.

''(43) NONPROGRAM STATE.—The term 'nonprogram State' means a State other than a program State.

''(44) ORIGINATING STATE.—The term 'originating State' means a State in which remediation waste is generated under a remedial action plan.

''(45) PROGRAM STATE.—The term 'program State' means a State that has a State remediation waste management program authorized under section 3006(i).

''(46) REMEDIAL ACTION PLAN.—The term 'remedial action plan' means a document or portion of a document (including but not limited to, an order, permit, or agreement) that—

''(A) is issued, entered into, or approved by the Administrator or a program State;

''(B) ensures that the management of the remediation waste is performed in a manner that is protective of human health and the environment by specifying—

''(i) the remediation waste that is the subject of the document;

''(ii) the manner in which the remediation waste will be managed;

''(iii) the methods of remediation; and

''(iv) the schedule for implementation; and

''(C) has been the subject of appropriate public notice and comment; and

''(D) provides for the exercise of compliance authority in accordance with section 3001(j)(1) and, in the case of a plan over any portion of which any other entity (a State or the Administrator) other than the entity that issued or entered into the plan is to exercise compliance authority, has the concurrence of the other entity for the portion of the plan for which the other entity has compliance authority, except that nothing in this subparagraph applies to remediation waste that is managed in accordance with subtitle C.

''(47) REMEDIATION WASTE.—The term 'remediation waste' means a solid waste or any medium (including ground water, surface water, soil, and sediment) generated during implementation of a remedial action plan that—

''(A) is, or is derived from, a listed hazardous waste;

''(B) contains or is mixed with a listed hazardous waste; or

''(C) exhibits a characteristic of a hazardous waste.''.

(b) IDENTIFICATION AND LISTING.—Section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended by adding at the end the following:

''(j) REMEDIATION WASTE.—

''(1) COMPLIANCE AUTHORITY.—

''(A) PROGRAM STATES.—Except as provided in section 3008, a program State shall exercise compliance authority with respect to a remedial action plan insofar as the remedial action plan describes the management of remediation waste in the program State.

''(B) NONPROGRAM STATES.—The Administrator shall exercise compliance authority with respect to a remedial action plan insofar as the remedial action plan describes the management of remediation waste in a nonprogram State.

''(C) REMEDIATION WASTE MANAGED INTERSTATE.—With respect to the management of remediation waste under a remedial action plan that provides that part of the management will be performed in another State other than the originating State—

''(i) if the other State is a program State, the program State shall exercise compliance authority with respect to the portions of the remedial action plan describing the management of remediation waste in the other State; or

''(ii) if the other State is a nonprogram State, the Administrator shall exercise compliance authority with respect to the portions of the remedial action plan describing the management of remediation waste in the other State.

''(2) CONDITIONAL EXCLUSION.—Notwithstanding any other provision of this subtitle, remediation waste that is managed under a remedial action plan shall not to be a hazardous waste for purposes of this subtitle.''.

(c) AUTHORIZED STATE HAZARDOUS WASTE REMEDIATION PROGRAMS.—Section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926) is amended by adding at the end the following:

''(i) AUTHORIZED STATE REMEDIATION WASTE MANAGEMENT PROGRAMS.—

''(1) STATES WITH AUTHORIZED HAZARDOUS WASTE PROGRAMS.—

''(A) CERTIFICATION.—A State that has a hazardous waste program authorized under subsection (b) may submit to the Administrator a certification, supported by such documentation as the State considers to be appropriate, demonstrating that the State has—

''(i) statutory and regulatory authority (including appropriate enforcement authority) to control the management of remediation waste from generation to final disposal in a manner that is protective of human health and the environment;

''(ii) resources in place to administer and enforce the authorities; and

''(iii) procedures to ensure public notice and opportunity for comment on remedial action plans submitted to the State.

''(B) INTERIM AUTHORIZATION.—Subject to subparagraph (C)(iii), beginning 60 days after submission of a certification under subparagraph (A), the State may proceed to carry out the remediation waste management program of the State until the Administrator issues a final determination under subparagraph (C).

''(C) DETERMINATION.—

''(i) IN GENERAL.—Not later than 18 months after the date on which a State submits to the Administrator a certification under subparagraph (A), after public notice and opportunity for comment, the Administrator shall issue to the State and publish in the Federal Register a determination that—

''(I) the certification meets all of the criteria stated in subparagraph (A), and the State has final authorization to carry out the remediation waste management program of the State; or

''(II) the certification fails to meet 1 or more of the criteria stated in subparagraph (A), stating with particularity the elements of the State program that are considered to be deficient, and that the deficiency would be likely to result in a State remediation waste management program that is not protective of human health and the environment.

''(ii) DEFAULT.—

''(I) IN GENERAL.—Except as provided in subclause (II), if the Administrator does not issue a determination under clause (i) within 18 months after the date on which a State submits to the Administrator a certification under subparagraph (A), the certification shall be considered to meet all of the criteria stated in subparagraph (A), and the State shall have final authorization to carry out the remediation waste management program of the State.

''(II) WITHDRAWAL OF AUTHORIZATION.—If the Administrator subsequently withdraws authorization for a State remediation waste program in accordance with subsection (e), the Administrator shall ensure completion of any ongoing remedial action plan.

''(iii) PRELIMINARY DETERMINATION.—If the Administrator determines that—

''(I) on preliminary review, it appears that it will likely be determined after notice and comment that a certification fails to meet 1 or more of the criteria stated in subparagraph (A); and

''(II) injury to human health or the environment would likely result from interim implementation of the State remediation waste management program under subparagraph (B),

the Administrator may issue a preliminary determination to the State, and the State shall not have interim authorization under subparagraph (B).

''(2) STATES WITHOUT AUTHORIZED HAZARDOUS WASTE PROGRAMS.—

''(A) CERTIFICATION.—A State that does not have a hazardous waste program authorized under subsection (b) may submit to the Administrator a certification, supported by such documentation as the State considers to be appropriate, demonstrating that the State has—

''(i) statutory and regulatory authority (including appropriate enforcement authority) to control the management of remediation waste from generation to final disposal in a manner that is protective of human health and the environment;

''(ii) resources in place to administer and enforce the authorities; and

''(iii) procedures to ensure public notice and opportunity for comment on remedial action plans submitted to the State.

''(B) INTERIM AUTHORIZATION.—Beginning 1 year after a certification under subparagraph (A), the State may proceed to carry out the remediation waste management program of the State until the Administrator issues a determination under subparagraph (C).

''(C) DETERMINATION.—

''(i) IN GENERAL.—Not later than 2 years after the date on which a State submits to the Administrator a certification under subparagraph (A), after public notice and opportunity for comment, the Administrator shall issue to the State and publish in the Federal Register a determination that—

''(I) the certification meets all of the criteria stated in subparagraph (A), and the State has final authorization to carry out the remediation waste management program of the State; or

''(II) the certification fails to meet 1 or more of the criteria stated in subparagraph (A), stating with particularity the elements of the State program that are considered to be deficient.

''(ii) DEFAULT.—

''(I) IN GENERAL.—Except as provided in subclause (II), if the Administrator does not issue a determination under clause (i) within 2 years after the date on which a State submits to the Administrator a certification under subparagraph (A), the certification shall be considered to meet all of the criteria stated in subparagraph (A), and the State shall have final authorization to carry out the remediation waste management program of the State.

''(II) WITHDRAWAL OF AUTHORITY.—If the Administrator subsequently withdraws authorization for a State remediation waste management program in accordance with subsection (e), the Administrator shall ensure completion of any ongoing remedial action plan.''.

(d) ENFORCEMENT.—Section 3008(a) of the Solid Waste Disposal Act (42 U.S.C. 6928(a))) is amended—

(1) in paragraph (1)—

(A) by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(B) by inserting after ''subtitle'' the following: ''or any requirement contained in a remedial action plan issued or entered into by the Administrator or with respect to which the Administrator exercises compliance authority under section 3001(j)'';

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

''(3) REMEDIATION WASTE.—

''(A) NOTICE OF VIOLATION.—Notwithstanding any other provision of this section, if, on the basis of any information, the Administrator determines that a person has violated or is in violation of any requirement for the management of remediation waste contained in a remedial action plan implemented under a State remediation waste management program authorized under section 3006(i), the Administrator shall provide notice to the State in which the violation occurred or is occurring prior to commencing any action to

require compliance with the requirements of the remedial action plan.

''(B) COMPLIANCE ORDER.—If, after the 30th day after the Administrator issues a notice of violation under subparagraph (A), a State has not taken appropriate action to require compliance with requirements of the remedial action plan, the Administrator may issue an order or commence an action under paragraph (1) to enforce the remediation waste management requirements of the remedial action plan.''.

(e) RELEASE, DETECTION, PREVENTION, AND CORRECTION.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

''(i) PETROLEUM-CONTAMINATED MEDIA AND DEBRIS.—Petroleum-contaminated media and debris that fail the test for toxicity characteristics due to organics issued by the Administrator under section 3001, and are subject to corrective action under this section, shall not be considered to be hazardous waste for purposes of subtitle C.''.

By Mr. ABRAHAM (for himself, Mr. HATCH, Mr. SPECTER, Mr. KYL, and Mrs. HUTCHISON):

S. 1275. 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 CONDITIONS LITIGATION REFORM ACT

• Mr. ABRAHAM. Mr. President, I introduce legislation that I believe is essential if we are to restore public confidence in government's ability to protect the public safety. Moreover, it will accomplish this purpose not by spending more taxpayer money but by saving it.

This legislation removes enormous obstacles the Federal Government has placed in the path of States' and localities' ability to protect their residents. I would like to highlight three of these obstacles and explain what we are going to do to remove them.

First, in many jurisdictions including my own State of Michigan, judicial orders entered under Federal law raise the costs of running prisons far beyond what is necessary. These orders also thereby undermine the legitimacy and punitive and deterrent effect of prison sentences.

Second, in other jurisdictions, judicial orders entered under Federal law actually result in the release of dangerous criminals from prisons.

Third, these orders are complemented by a veritable torrent of prisoner lawsuits. Although these suits are found non-meritorious the vast majority of the time (over 99 percent, for example, in the ninth circuit), they occupy an enormous amount of State and local time and resources; time and resources that would be better spent incarcerating more dangerous offenders.

Let me start with the problems in my own State of Michigan.

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:

1. How warm the food is.
2. How bright the lights are.
3. Whether there are electrical outlets in each cell.
4. Whether windows are inspected and up to code.
5. Whether prisoners' hair is cut only by licensed barbers.
6. And whether air and water temperatures are comfortable.

Elsewhere, American citizens are put at risk every day by court decrees. I have in mind particularly decrees that cure prison crowding by declaring that we must free dangerous criminals before they have served their time, or not incarcerate certain criminals at all because prisons are too crowded.

The most egregious example is the city of Philadelphia. For the past 8 years, a Federal judge has been overseeing what has become a program of wholesale releases of up to 600 criminal defendants per week to keep the prison population down to what she considers an appropriate level.

Under this order, there are no individualized bail hearings on a defendant's criminal history before deciding whether to release the defendant before trial. Instead, the only consideration is what the defendant is charged with the day of his or her arrest.

No matter what the defendant has done before, even, for example, if he or she was previously convicted of murder, if the charge giving rise to the arrest is a non-violent crime, the defendant may not be held pretrial. Moreover, the so-called non-violent crimes include stalking, carjacking, robbery with a baseball bat, burglary, drug dealing, vehicular homicide, manslaughter, terroristic threats, and gun charges.

As a result Philadelphia, which before the cap had about 18,000 outstanding bench warrants, now has almost 50,000. In reality, though, no one is out looking for these fugitives. Why look? If they were found, they would just be released back onto the streets under the prison cap.

In the meantime thousands of defendants who were out on the streets because of the cap have been rearrested for new crimes, including 79 murders, 959 robberies, 2,215 drug dealing charges, 701 burglaries, 2,748 thefts, 90 rapes, and 1113 assaults.

Looking at the same material from another vantage point: In 1993 and 1994, over 27,000 new bench warrants for misdemeanor and felony charges were issued for defendants released under the cap. That's 63 percent of all new bench warrants in 1993 and 74 percent of all new bench warrants for the first 6 months of 1994.

Failure to appear rates for crimes covered by the cap are all around 70 percent, as opposed to, for example, non-covered crimes like aggravated assault, where the rate is just 3 percent. The Philadelphia fugitive rate for defendants charged with drug dealing is 76 percent, three times the national rate.

Over 100 persons in Philadelphia have been killed by criminals set free under the prison cap. Moreover, the citizenry has understandably lost confidence in the criminal justice system's ability to protect them. And the criminals, on the other hand, have every reason to believe that the system can't do anything about them.

All of this would be bad enough if it were the result of a court order to correct serious constitutional violations committed by the Philadelphia corrections system. But it is not.

Indeed, a different Federal judge recently found that conditions in Philadelphia's oldest and most decrepit facility—Holmesburg Prison—met constitutional standards.

These murderous early releases are the result of a consent decree entered into by the prior mayoral administration from which the current administration has been unable to extricate itself.

Finally, in addition to massive judicial interventions in State prison systems, we also have frivolous inmate litigation brought under Federal law; this litigation also ties up enormous resources. Thirty-three States have estimated that Federal inmate suits cost them at least $54.5 million annually. The National Association of Attorneys General have extrapolated that number to conclude that nationwide the costs are at least $81.3 million. Since, according to their information, more than 95 percent of these suits are dismissed without the inmate receiving anything, the vast majority of the $81.3 million being spent is attributable to non-meritorious cases.

Mr. President, in my opinion 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 frivolous prisoner lawsuits.

And convicted criminals, while they must be accorded their constitution rights, deserve to be punished. I think virtually everybody believes that while these people are in jail they should not be tortured, but they also should not have all the rights and privileges the rest of us enjoy, and that their lives should, on the whole, be describable by the old concept known as hard time.

The legislation I am introducing today will return sanity and State control to our prison systems. It will do so by limiting judicial remedies in prison cases and by limiting frivolous prisoner litigation.

First, we must curtail interference by the Federal courts themselves in the orderly administration of our prisons. This is not to say that we will have no court relief available for prisoner suits, only that we will try to retain it for cases where it is needed while curtailing its destructive use.

Most fundamentally, the proposed 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.

No longer will prison administration be turned over to Federal judges 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.

The bill also will make it more difficult for judges to release dangerous criminals back into the population, or to prevent the authorities from incarcerating them in the first place.

To accomplish this, the legislation forbids courts from entering release orders except under very limited circumstances. The court first must have entered an order for less intrusive relief, which must be shown to have failed to cure the violation of Federal rights. If a Federal court reaches this conclusion, it must refer the question of whether or not to issue a release order to a three judge district court.

This court must find by clear and convincing evidence that crowding is the primary cause of the violation of a Federal right and that no other relief will remedy the violation of the Federal right. Then the court must find, by a preponderance of the evidence, that the crowding had deprived particular plaintiffs of at least one essential, identifiable human need, and that prison officials have either deliberately subjected the plaintiffs to this deprivation or have been deliberately indifferent to it.

As important, this legislation provides that any prospective relief order may be terminated on the motion of either party 2 years after the later of the grant of relief or the enactment of the bill. The court shall grant the termination unless it finds that the original prerequisites for granting it are present at that time.

No longer, then, will we have consent decrees, such as those in Michigan under which judges control the prisons literally for decades.

Finally, the bill contains several measures to reduce frivolous inmate litigation. The bill limits attorney's fee awards. In addition, prisoners no longer will be reimbursed for attorney's fees unless they prove an actual statutory violation.

No longer will courts award attorney's fees simply because the prison has changed pre-existing conditions. Only if those conditions violated a prisoner's rights will fees be awarded.

Prisoners who succeed in proving a statutory violation will be reimbursed only for fees directly and reasonably incurred in proving that violation.

In addition, attorney's fees must be proportionally related to the court ordered relief. No longer will attorneys be allowed to charge massive amounts to the State for the service of correcting minimal violations.

And no longer will attorneys be allowed to charge very high fees for their time. The fee must be calculated at an hourly rate no higher than that set for court appointed counsel. And up to 25 percent of any monetary award the court orders the plaintiff wins will go toward payment of the prisoner's attorney's fees.

The bill also prohibits prisoners who have filed three frivolous or obviously nonmeritorious in forma pauperis civil actions from filing any more unless they are in imminent danger of severe bodily harm.

Also, to keep prisoners from using lawsuits as an excuse to get out of jail for a time, pretrial hearings generally will be conducted by telephone, so that the prisoner stays in prison.

Mr. President, these reforms will decrease the number of frivolous claims filed by prisoners. They will decrease prisoners' incentives to file suits over how bright their lights are. At the same time, they will discourage judges from seeking to take control over our prison systems, and to micromanage them, right down to the brightness of their lights.

This is a far-reaching bill, Mr. President. One aimed at solving a complex, costly, and dangerous problem. Its several provisions will discourage frivolous lawsuits and promote State control over State prison systems. At the same time, this legislation will help protect convicted criminals' constitutional rights without releasing them to prey on an innocent public or keeping them in conditions so comfortable that they lose their deterrent effect.

I urge my colleagues to support this legislation.

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. 1275

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 Conditions Litigation Reform Act''.

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.—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. In determining the intrusiveness of the relief, 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.

''(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 shall automatically expire on the date that is 90 days after its entry, unless the court 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 a particular plaintiff or plaintiffs of at least one essential, identifiable human need.

''(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 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.

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

''(4) TERMINATION OR MODIFICATION.—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)(3); and

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

''(f) 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;

''(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 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;

''(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 'prospective relief' means all relief other than monetary damages; and

''(7) the term 'relief' means all relief in any form that may be granted or approved by the court, and includes consent decrees and settlement agreements (except a settlement agreement the breach of which is not subject to any court enforcement other than reinstatement of the civil proceeding that such agreement settled).''.

(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 relief (as defined in such section) 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.

Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended by adding at the end the following new subsections:

''(f) 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 be awarded only if—

''(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).

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

''(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.''.

SEC. 4. SUCCESSIVE CLAIMS IN PROCEEDINGS IN FORMA PAUPERIS.

Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) 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.

''(2) As used in this subsection, 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.''.●

ADDITIONAL COSPONSORS

S. 581

At the request of Mr. FAIRCLOTH, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 949

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

S. 1093

At the request of Mr. REID, the name of the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 1093, a bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such Act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes.