measures such as the investigation and control of threats to the health of communities such as communicable diseases (tuberculosis, HIV, measles, influenza), environmental hazards (air pollution, radon, radiation, waste and sewage disposal), toxic pollutants (lead-based paint, contaminated drinking water) and emerging patterns of acute and chronic disease and injury (food borne poisoning, cancer, heart disease).

Other Programs.—Funding is also made available for comprehensive evaluation of disease prevention and health promotion programs, Schools of Public Health, Area Health Education Centers, Health Education Training Centers, Regional Poison Control Centers, school-related health services, Community and Migrant Health Centers, the National Health Service Corps, satellite primary car clinics and community health advisors.

Funding.—This title is allocated $9 billion over a five-year period.

TITLE IV—MEDICAL RESEARCH

National Institute of Health (NIH) Funding.—$6 billion would be allocated over a five-year period under this title to expand our national commitment to health research. Monies are allocated to the NIH Institutes and Centers on the same basis as annual appropriations. Five percent of the monies will be directed to extramural construction and renovation of research facilities, the National Library of Medicine and the Office of the Director.

TITLE V—FRAUD AND ABUSE

Federal-State-Private Sector Coordination.—This title tracks much of the language from Senator Bill Cohen's ''Health Care Fraud Prevention Act of 1995''. An improved federal-state-private sector collaboration to combat fraud and abuse would be established. Moreover, certain existing criminal and civil penalties would be expanded to eliminate waste in the health care system.

TITLE VI—FINANCING PROVISIONS

Tobacco Tax.—The bill will be financed through a $1 tax on tobacco products. This tax is expected to raise $65 billion over five years.

NOT INCLUDED—MEDICAID AND MEDICARE CUTS

There are no Medicaid and Medicare cuts included in the Graham-Hatfield proposal.

THE HEALTH PARTNERSHIP ACT

Mr. HATFIELD. Mr. President, on the first day of the 104th Congress, I introduced a package of five bills—my legislative priorities for the coming session. At that time, I stated that one of my main priorities during the 104th Congress will be to look for ways to redefine Federal programs to enhance the efforts toward reform already underway in the States. The three bills I introduced on that first day are designed to decrease the burden of Federal compliance and oversight measures in key policy areas. In exchange for loosening the Federal regulatory straitjacket, we will transform accountability from paperwork requirements to performance-based results. I call this the flexibility factor in Government and it entails finding a path through every Federal agency where innovation at the State and local levels is nurtured and rewarded.

It is in that context today that I join my good friend and colleague from Florida, Mr. GRAHAM, in introducing the Health Partnership Act of 1995. This bill is very similar to the legislation we introduced at the end of the 103d Congress when it became apparent that efforts to pass comprehensive reform would fail. Rather than federalizing health care, this bill would encourage the States to innovate and help build the best approaches to addressing our health care problems—a return to the true essence of federalism.

To date, six States have enacted comprehensive health care reform proposals—Hawaii, Massachusetts, Oregon, Minnesota, Florida, and Washington. In addition, 44 States have enacted small group insurance reform; 44 have enacted data collection systems, and 41 have Medicaid managed care experiments underway.

Although many reforms are underway, States have often had to struggle with the Federal Government to move forward with their reform plans. Securing the necessary waivers from the Federal Government has become an increasingly burdensome process. For example, it took nearly 3 years and two administrations for Oregon to obtain the Medicaid waivers it needed to implement its Medicaid expansion. This expansion has provided health care for nearly 100,000 additional Oregonians since its implementation in February 1994. And although there have been problems that came with implementation, the overwhelming majority of Oregonians continue to support the Oregon health plan.

Mr. President, I am fortunate to come from a State which is willing to look at new and innovative approaches to reform in the public and private sectors. Recently, Oregon was granted a welfare waiver to implement their Jobs Plus Program. Oregon has also recently signed a memorandum of understanding with the administration to move forward with the Oregon Option, a partnership designed to deliver Government services in a better and more efficient manner. We are also hopeful that our State will be designed an ''edflex partnership State'' by Secretary Riley as soon as the Goals 2000 process is in place. This designation will allow our State to waive Federal law in certain areas in which the State has already demonstrated a commitment to change. Frankly, it seems like I am spending much of my time these days pursuing waivers of Federal law for my State—nearly all of the innovation that has come forth from my State in recent years has required a Federal waiver for implementation. Oregon is willing to persevere—but not all States are.

Due to the arduous process a State must go through to obtain Federal waivers to enact comprehensive health care reform, many States have held off in attempting comprehensive reform. In addition, one of the biggest barriers to State reform is the Employee Retirement Income Security Act [ERISA]. This Federal law is one of the broadest Federal laws on the books, and it has effectively prevented States from enacting reform that achieves universal coverage. ERISA waivers can only be granted by the Congress and have been few and far between—only Hawaii has one and it was granted 20 years ago.

The issue of ERISA reform is a sensitive one. On one hand, States feel that ERISA preemption is a major roadblock to their reform efforts. States argue that ERISA prevents them from reaching a significant percentage of the insurance market in order to fully implement reform proposals that increase access to health care and control costs. On the other hand, business, especially employers with businesses in many different States, argue that they need uniformity in the administration of their employee health benefit plans. They argue that their ability to manage their health care costs and assure that all employees are getting equal benefits will be undermined by State health care reform if the ERISA preemption is lifted.

Both sides raise compelling arguments, but where does that leave us? In the absence of comprehensive national reform, the status quo is not acceptable. Thus, in the bill we are introducing today, we have included a mechanism which will hopefully lead to a fair and equitable resolution of this problem. In order to allow States to move forward with meaningful comprehensive health care reform, while fully recognizing the needs of employers in administering self-funded plans across State lines, an ERISA Review Commission is established to find common ground, clarify what is permissible under ERISA and ensure the interest of self-insured plans are addressed. This limited duration Commission will be charged with making recommendations on ERISA reform to the Secretary of Labor, and will be composed of representatives from State and local government, business, labor, and the Federal Government.

We consider this piece of our bill as work in progress. We firmly believe that the dialog between the two sides must begin. And we look forward to finding ways to improve and expand upon the proposal we put forward in today's legislation.

I have long advocated that we look to the States to help develop the database we need to determine the appropriate Federal role in health care reform. In my opinion, this is the essence of the federalism on which our country was founded. With no consensus on comprehensive reform in Congress, we should turn to the States to lay the foundation for reform. All of the ideas that we debated last session—from insurance reform to universal coverage to malpractice reform—are being tested in our States. We should then distill the information and data obtained from these innovations and use it to reach consensus on national reform.

The bill that we are reintroducing today does that. It says to the States, we believe in you. Put together a plan to expand access to health care, control costs, to improve quality and health outcomes in your State and we will give you the waivers you need to implement your innovative ideas. We believe this should be a partnership and so we will even provide you with some Federal funds to help you achieve your goals. Then at the end of 5 years, we will evaluate what you have done. Has it been successful? Have you met your goals? How can we use this information to put together a plan that works for the rest of the Nation?

And if a State wants to develop a more limited plan, the bill will allow that State to apply for a limited project waiver. This will encourage more of the limited reforms that are already proceeding so successfully in many States, on a much more rapid basis.

In addition, the bill includes provisions to improve public health services and access to health care in rural and underserved areas. This will spur the development of our health care delivery infrastructure and will lead to better health outcomes.

This bill also includes a proposal I have long-championed with Senator HARKIN of Iowa—the National Fund for Health Research. While I intend to introduce this piece of the bill as free-standing legislation later in the year, I feel it is important to have at least one option on the table for increasing our commitment to medical research. Therefore, a minimum of $6 billion will be provided over 5 years to supplement the annual appropriations to the National Institutes of Health.

Medical research is the sole hope we can provide to millions of Americans who will face disease and disability either in their own lives or in their families. We can care for them in our hospitals and clinics but we cannot alleviate their pain or end their suffering without cures and preventative treatments. Cures are the direct result of our investment in medical research.

Mr. President, our Nation spends about $1 trillion each year on health care, but only 2 to 3 percent on medical research. I submit to the proponents of cost containment, that the cornerstone of cost containment is the cures and improved treatments arising from medical research.

I want to cite two examples of the tremendous strides taken in medical research that have totally reversed the prognostic indications for certain diseases. In 1960, we had a U.S. Senator, Richard L. Neuberger, die of testicular cancer. At that point in time, this diagnosis carried a death sentence. Today, because of the advances in medical research, 95 percent of testicular cancer is curable. That is but one example of the strides we have made in the eradication of disease. Research in other fields such as heart and lung disease, stroke, and juvenile leukemia have increased the quality of life and lifespans of many afflicted individuals.

The other day, I was amused by the current commercials on treatments for upset stomachs and more specifically, petic ulcers. A research study at the Michigan Research Center concluded that petic ulcers are not caused by stress or diet, but by simple bacteria. The causative bacteria is treatable with common antibiotics and, therefore, ulcers are curable. That one singular research project was responsible for altering our treatment of a common ailment, and alleviating the constant pain of its sufferers.

Additionally, I want to emphasize that medical research has a broad base of public support. One recent poll indicated that 77 percent of the American people supported a health care premium increase of $1 per week, if it were earmarked for medical research. Another 75 percent of the American people said they would accept a $1 increase per week on their income tax bill, if it were earmarked for medical research.

The American public realizes that there is a direct link between medical research and improved health care, cost containment, and discovery of disease cures. I cannot emphasize enough the necessity of undergirding the National Institutes of Health with better funding mechanisms than what exists in the annual appropriations process.

Finally, we have added a title to our bill to address the enormous problem of fraud and abuse in our health care system. The focus of this title is on Federal, State, and private sector coordination to combat fraud and abuse. Much of the language in the title tracks the legislation recently introduced by the Senator from Maine [Mr. COHEN] in the Health Care Fraud Prevention Act of 1995.

Beginning the process to reforming our health care system does not come without cost.

Currently, we are witnessing increasing doubts about the dependability of funding for our medical research initiatives. With the squeeze on discretionary nonmilitary funding, we are going to have even greater pressure put upon our ability to find innovative financial support.

Thus, our proposal will be fully funded by a $1 tax on tobacco products. The Congressional Budget Office has indicated that a $1 increase will result in $65 billion in revenues. As a long-time advocate of increased tobacco taxes, I believe this is an appropriate revenue source not only because of the revenue that is gained through the tax, but more importantly, because of the health benefits that result from such a tax. This tax will save lives and will have a great effect on the number of teens who smoke. As my colleagues know, the number of teenage smokers is rising significantly despite our efforts to educate teens about the health dangers of tobacco use. We must redouble our efforts to halt this increase in young smokers.

Mr. President, I strongly believe that the approach we are putting forward today is a positive first step toward the foundation of national reform. There will be those who argue that a State approach will lead to a fragmented health care system. I disagree. We will likely not achieve comprehensive national health care reform this year. Let us not make the mistake of missing an opportunity to gather data from the States that will help us in the years ahead. Ours should be a partnership with the States to facilitate the development of health care reform—we should invite them into the process as our partners, not fight their innovative efforts.

By Mr. BENNETT (for himself, Mr. BUMPERS, and Mr. JOHNSTON):

S. 309. A bill to reform the concession policies of the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

THE CONCESSION POLICY REFORM ACT OF 1995

Mr. BENNETT. Mr. President, I rise today to offer a piece of legislation which will be known, I hope, when it becomes law as the National Park Service Concessions Policy Reform Act of 1995.

This particular act is cosponsored by two of my friends on the Senate Energy and Natural Resources Committee, the former chairman of that committee, Chairman BENNETT JOHNSTON and Mr. BUMPERS, DALE BUMPERS, from Arkansas, who was the chairman of the subcommittee that handled this legislation in the previous Congress.

Mr. BUMPERS has been pursuing reform in the Park Service concession policy for, I think, his entire career in the Senate. I was delighted to join with him last year and bring about the passage of this bill in the committee and the Senate. It was reported out by the committee by a vote of 16 to 4, a majority of Republicans and a majority of Democrats both supporting it. And it was passed on this floor a year and a half ago by a vote of 90 to 9, demonstrating tremendous bipartisan support for this.

Unfortunately, our friends in the House did not act with the same dispatch that we did and, as a consequence, it got hung up there, tragically, for enough months to mean that when the conference report cam before this body, it ultimately got caught in the trap of the yearend logjam, traffic jam and, as a result, the conference report was not adopted.

So it is necessary for us to introduce it again this year. I think this year we will see it move rapidly through both the Senate and the House and become law.

The bill that I am introducing is very similar to the one that passed this body 90 to 9 last year, and the arguments in favor of it are the same as they were on that occasion. Very specifically, Mr. President, our national parks, like everything else in life, are

changing. That is, the number of visitors to the national parks is going up. As a consequence, the need for services is changing.

If I can refer to a national park in my own home State—and we in Utah are proud of the fact that we have as many national parks as any other State in the Union, it is a particularly gorgeous place in Utah—Zion National Park in the last 10 years has seen the number of visitors go from 1.4 million in 1983 to 2.9 million in 1993, doubling in a 10-year period. Obviously, in that kind of a circumstance, the sort of concession policy that you had 10 years ago needs to be examined in the light of this increase.

There, of course, are other reasons why this needs to be examined. The Park Service is itself running out of money. It is one of the tragedies that we have the crown jewels of the National Park System being starved for resources just as more and more Americans want to take advantage of the beauty of these parks. As a consequence, one of the places people are looking for money is to the royalty payments to come from the concessionaires.

Oh, say some, well, that means the Government is trying to beat up on the concessionaires, the Government is trying to punish the concessionaires for being successful. I do not think so. What we are trying to do in this legislation is open up the concessions for competitive bidding and let the marketplace determine what these concessions are worth.

I come from the business community. I have listened to the concessionaires as fellow business people when they come and say to me, Senator, you can't change the rules. Well, the rules change all the time as markets change. I knew that when I was in business. I reminded them of that in their business circumstance.

But the most important reason we need to change this is because we do need the power of competition to help set the rates. We do need the opportunity for new blood and new ideas to come in, even if the concessionaire does not change. I say to those who are saying, We're going to lose what we have now under the new policy you are proposing, Senator, we're going to lose the concession that we have, I say,

No you are not. If, indeed, you are as capable as you say you are, and I believe you are, if you have the expertise of 10, 15, 20 years experience as you say you have, you will be able to compete. But the mere fact that you will be forced to compete with an outside bidder will, indeed, make you sharper even if you are, indeed, the ones who hang on to the concession as it currently exists.

So, Mr. President, we are dealing with a piece of legislation here that really is relatively noncontroversial, given the vote that it had in the last Congress; something that I think is long overdue, given the changes that are occurring in the national parks; something that is sound financial policy, given the fact that the parks do not have the kind of money that I think they should have. It is good public policy.

I was pleased to be associated with it in the previous Congress, and I am happy to have the opportunity to offer it again in this Congress.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 8 minutes remaining.

Mr. BENNETT. Mr. President, now that the Senator from Arkansas has joined us in the Chamber, I do not intend to use the remainder of my time. I would like to comment now that he is here on his leadership on this issue.

I came to the Senate knowing nothing about it. I sat in the committee listening to the hearings where the issue was outlined and decided that the Senator from Arkansas was correct, that something needed to be done. I conferred with my then ranking member on the committee, the Senator from Wyoming, Mr. Wallop, who suggested that with my business background it might be appropriate that I get involved in this.

I must, for the accuracy of the RECORD, point out that Senator Wallop was not convinced and was one of the four in the committee and one of the nine in the Chamber who decided they could not support this particular approach. But I was very grateful to him for his overall support of my involvement and to the Senator from Arkansas for his leadership and tenacity on this issue. He was very instrumental in giving me the background and the education and the understanding of these issues. Had he not been willing to act as my tutor and mentor in this circumstance I undoubtedly would not have come to the point that I have here today.

So as I yield back the remainder of my time and end my statement, I do so with a comment of gratitude to the senior Senator from Arkansas for his leadership and his tutelage on this issue.

I also must add to that my gratitude to the senior Republicans on the energy committee who also helped me understand this issue and who supported this in committee: Senator HATFIELD, Senator DOMENICI, Senator NICKLES, and others who supported us in committee on the Republican side. As I said in my earlier comment, the bill was supported by a majority of both Republicans and Democrats, even though there were both Republicans and Democrats in committee who decided they could not support it.

So, Mr. President, I am delighted to turn the floor over to the senior Senator from Arkansas [Mr. BUMPERS] and thank him for his patience in helping this more junior Senator understand the nature of this issue and the importance of it. I am delighted to have him as an original cosponsor on this bill.

Mr. BUMPERS. Mr. President, I am pleased today to join Senator BENNETT in sponsoring the National Park Service Concession Policy Reform Act of 1995.

I first started trying to reform park concession policies in 1979. Over the past 16 years, we have held numerous legislative and oversight hearings, but until last year, had been unable to move the bill beyond the hearing stage. During last year's hearing, Senator BENNETT offered to work with me to find a compromise, and in large part because of his efforts, we reported a bill with bipartisan support from the Energy and Natural Resources Committee. That bill, S. 208, was overwhelmingly supported by the Senate, passing by a vote of 90 to 9. The bill enjoyed equally strong support in the House of Representatives, passing with relatively minor changes by a vote of 386 to 30. Despite such strong support in both Houses, the bill died last Congress because two Senators refused to allow the final compromise version to be brought up on the Senate floor during the final days of the 103d Congress.

The bill that Senator BENNETT and I are introducing this year is essentially the same as last year's Senate-passed bill. This bill will make much-needed changes in the current system and ensure that the American public receives a fair return for allowing private entities the privilege of doing business in units of the National Park System. As I have said many times, the Concessions Policy Act of 1965, the law under which the National Park Service authorizes concessions to provide visitor services inside units of the National Park System, is outdated and anticompetitive, and should be repealed.

Private visitor service facilities have been operating in our national parks for nearly 100 years. Prior to 1965, the National Park Service provided for in-park visitor services by administrative action under very general provisions in the 1916 National Park Service Organic Act. In 1965, Congress enacted the Concession Policy Act, making the National Park Service the only Federal land-managing agency with a specific concessions statute.

Current concession operations in parks vary in size from small, family-owned businesses providing services such as canoe rentals and guiding services, to major hotel and restaurant facilities operated by large corporations. Although the number fluctuates because of seasonal changes, there are currently about 650 concessioners operating inside units of the National Park System.

Concession permits are issued for most smaller or seasonal operations, while concession contracts are used for larger, more long-term operations. Total gross revenues generated by concessioners currently amount to more than $657 million annually. Significantly, about 50 concessioners—less than 8 percent—account for over 80 percent of these revenues.

Concession policy and the need for significant reform have been topics of intense interest for many years. In addition to the hearings we have conducted, this issue has been the subject of numerous studies, reports, and analyses prepared by the Congress, the General Accounting Office, the Department of the Interior's inspector general, the National Park Service, and a variety of private research organizations. All of these studies have identified problems with the current law which need to be addressed.

FRANCHISE FEES

One of the problems with the current system concerns franchise fees, the fees paid by concessions to the United States for the privilege of operating a business inside a national park. These fees are too low and should be increased. This is especially true for the larger concessioners who are operating under long-term concessions contracts entered into many years ago. At present, the U.S. Treasury receives approximately $18 million in franchise and related fees from concessioners who do in excess of $657 million worth of business in our national parks. In addition, another $7.8 million is retained within parks in special accounts. Combined, these franchise fees and special accounts average only 4 percent of the total gross revenues earned by concessioners. This low rate of return results in a giveaway of some of our Nation's most valuable resources.

I am pleased to note that some of the most recent contracts have provided for a better rate of return. For example, the new contract to provide visitor services at Yosemite National Park increased the rate of return to the Government from three-quarters of 1 percent to almost 20 percent. However, this change was the result of a very unique set of circumstances which permitted several companies to compete for the new contract; in general, the Concession Policy Act of 1965 continues to prevent serious competition for the awarding of any new contract. In addition, there is no assurance that a future administration would not reverse course and return to the abysmally low returns of the past.

Rather than arbitrarily establishing a minimum franchise fee in the legislation, my bill will ensure that these fees be set at more realistic levels by encouraging and facilitating increased competition for concession contracts.

In addition, under existing law, franchise fees are deposited as miscellaneous receipts in the U.S. Treasury. Since these funds do not directly benefit the parks or the people who use them, there is little incentive for the Park Service to aggressively pursue increased fees, or for concessioners to pay them. The Concession Policy Reform Act of 1995 would deposit these receipts into a special account in the Treasury to be used to benefit park operations, resource management maintenance, visitor services, et cetera. The bill also directs the Park Service, where practicable, to establish a park improvement fund in lieu of collecting all or a portion of the franchise fees.

While I believe it is important to try and ensure that the Federal Government achieves a higher return from these contracts, the operation of facilities in national parks should not be determined simply on the basis of the highest bid. This legislation explicitly states that consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park areas. In addition, the bill grants the Secretary the authority to reject any bid, regardless of the amount of franchise fee offered, if the Secretary determines that the bidder is not qualified, is likely to provide unsatisfactory service, or is not responsive to the objectives of protecting and preserving the park area. So that there is absolutely no doubt about the priority of concessions operations within national parks, the bill explicitly directs the Secretary to evaluate franchise fee proposals only from among those companies that the Secretary determines will be responsive to protecting and preserving park resources.

PREFERENTIAL RIGHT OF RENEWAL

Perhaps the most significant impediment to competition concerns the statutory preferential right to contract renewal which, as currently interpreted by the Park Service, gives an existing satisfactory concessioner the right to meet the terms of a better offer submitted by a competitor and to retain the contract if the existing concessioner's offer is substantially equal. In my view, in most cases, this is anticompetitive and should not be granted as a matter of law. While such a preference may have been warranted years ago to encourage certain developments in parks and ensure the continuity of concession operations, it can also limit both the Park Service's influence in dealing with concessioners and the ability of most Americans to compete for concession contracts. In many instances, the right to provide visitor services inside National Parks is a very desirable and very valuable privilege which can attract a host of extremely competent and qualified prospective concessioners. The Park Service ought to be able to choose from these qualified applicants without being constrained by a preferential right. This legislation will eliminate the preferential right of renewal in future concessions contracts, with the limited exception of outfitter and guide operations who currently operate in a largely competitive environment, and small contracts with gross annual revenues of $500,000 or less, which I will discuss in detail shortly.

NOTICE OF OPPORTUNITY TO BID ON NEW CONTRACTS

It is apparent that the Park Service does not adequately publicize new concession contracts or contract renewal opportunities, nor does it always provide interested parties with the specific financial and other submission requirements needed to submit competitive proposals. The Concession Policy Reform Act would establish a detailed competitive bidding procedure for the awarding of all concessions contracts. This process would require that advance notice of all concessions contracts be published, that specific minimum bid requirements be established and made public, and that the details of the previous contract for the park area and other important information be made available to prospective concessioners.

POSSESSORY INTEREST

The other most significant obstacle to competition for concession contracts involves a provision in the current law which allows the granting of a possessory interest to a concessioner. When a concessioner makes an improvement on land inside a National Park, that concessioner is entitled, with the approval of the Secretary, to a possessory interest in that improvement, which consists of all incidents of ownership except legal title. The method of valuation for this property interest as set forth the 1965 act is sound value. Sound value is defined as current reconstruction cost, less depreciation, not to exceed fair market value. This effectively gives concessioners a right of compensation for the appreciated value of their improvements. This current practice of routinely granting sound value can result in concessioners being entitled to millions of dollars in possessory interest, which can effectively make it impossible for the National Park Service to terminate a contract or award it to a new concessioner. This practice is not financially warranted in all circumstances, serves as a barrier to new and qualified concessioners, and limits the Park Service's flexibility in managing concessions facilities.

The Concession Policy Reform Act of 1995 will continue to recognize a current concessioner's possessory interest, if there is one. With respect to new concessions contracts, however, the bill provides that if a concessioner's contract is terminated, the concessioner shall be entitled to the actual cost of building or acquiring the structure, less depreciation. Last Congress, the legislation was modified to provide for the depreciation of the structure over its useful life, up to the depreciation period used for Federal income tax purposes, which is currently 39 years. As modified, I believe the bill allows for a more reasonable depreciation schedule, while at the same time, permitting a concessioner to be compensated for its nondepreciated interest in the structure, thus protecting the concessioner's investment.

In addition to these major changes, the legislation would adopt a number of other recommendations identified by the General Accounting Office, the Inspector General, and the Department's Concessions Task Force.

Over the past few years, the bill has been modified several times to incorporate many constructive suggestions and proposals. These changes include eliminating what some perceived to be excessive reporting and regulatory requirements, clarifying the criteria by which a contract is to be awarded, narrowing the uses for revenues generated from franchise fees, and other clarifying and conforming changes.

This year's bill retains the provision in last year's Senate passed bill to recognize a preferential right of renewal for outfitters, guides, and river runners, as well as for small operations with gross annual revenues of under $500,000. While I believe such a right is anticompetitive in general, I believe a limited exception is warranted in these cases. Unlike most concessioners, river runners and other companies providing outfitter and guide services operate in a competitive environment within a park, with several companies providing the same or similar services. In addition, guide and outfitter operations do not have a possessory interest in park structures, unlike many other concessioners. The legislation directs the Secretary to grant a preferential right of renewal for these outfitters, but only if the operator does not have a possessory interest in a structure, and only if the company has been evaluated as operating satisfactorily during the previous contract. I think this approach recognizes the needs of this class of concessioners, but is consistent with the overall thrust of this legislation.

The bill also provides a preferential right of renewal for small operations with gross annual revenues of less than $500,000. This encompasses almost 80 percent of all concession operations. I have always maintained that concession reform should not be a means to force small operations, especially family operations, who have in many instances provided service to a particular park for decades. At the same time, the bill ensures that the contracts with gross annual revenues exceeding $500,000, which account for over 90 percent of all concession revenues, are awarded based on a competitive basis.

I would also like to repeat an observation that I have made continuously during the past several years, one that I am sure Senator BENNETT would agree with. The purpose of this bill is not to eliminate concession operations from our national parks. I do not subscribe to the theory all visitor facilities in national parks are inappropriate. Many of the facilities and services provided by concessioners are entirely appropriate and benefit the park visitors. I only want to ensure that when concession contracts are awarded, the American people receive a fair return, and that there is an opportunity for competition for these desirable business opportunities.

Mr. President, this bill represents responsible reform of national park concession policy. As demonstrated last Congress, this issue has strong bipartisan support in both Houses of Congress. In addition, concession reform has been a high priority within the Department of the Interior. I urge my colleagues to continue their strong support for this much-needed reform, and I look forward to its swift enactment this year.

In summary, Mr. President, I again wish to pay tribute to my distinguished colleague and very good friend, the Senator from Utah, ROBERT BENNETT. I have to confess that after working 16 years to reform the concessions policy of this country in the national parks, I had annually hit a stone wall until BOB BENNETT came to the Senate.

I am not only grateful to him and to his values and his integrity, political, and every other way, but also because of his background in business and the recognition, once he delved into the issue, that this was a policy which was long, long ago outdated and needed dramatically to be reformed.

Let me further say that even my own efforts on this through the years have not been, as some concessionaires thought, punitive in nature. It is just one of those things that has been going on for 50 to 100 years in this country and nobody ever did anything about it.

Once I realized how badly it needed reform, I went to work on it. As I say, it was not until 1993 and 1994, after Senator BENNETT came and sat on the Energy Committee with me where the original jurisdiction on this issue lay—and I never will forget the morning that he made what I thought was one of the most sensible presentations in the committee I ever heard, and that was we believe in competition. We pride ourselves on being a capitalistic nation. We believe in free enterprise, and that entails competition. And there was, Mr. President, virtually no competition in this field.

In 1993, the concessions of this country took in $657 million, and the U.S. Treasury derived the princely sum of $18 million. The one contract that we have let under something similar to this bill was let in Yosemite, and this Yosemite contract pays up to 20 percent.

Now, we want to keep the rentals as low as we can because the lower they are, the lower the prices are and that is good for the American people who visit the park. But we also want the U.S. Government, which owns the parks and is responsible for them, to get a decent return based on competition.

So, Mr. President, I wish to say this is a very happy day for me. We passed this bill out of our committee last year, and one Senator killed the bill in the last 2 weeks of the session. As a matter of fact, that same Senator killed about 35 to 40 bills out of the National Parks Subcommittee of the Energy Committee and now we have to have hearings on those bills all over again this year at a staggering cost to the taxpayers, report the bills, go through the House, go through conference, go through everything we went through before in order to pass the bills again.

One other thing I would like to point out is that one of the things that occurred to me, which made this concessions policy absolutely necessary, was the policy of allowing concessionaires in the parks to build hotels and other structures and, of course, depreciate those things on their tax books but at the end of the lease, if they lost the lease, be entitled to what was called sound value, which was effectively market value.

If you had the concession at Yosemite and you decided to put $5 million into a hotel, at the end of your lease, say 15 years later, you are entitled to the market value of the hotel if you lost the lease, and that might be $20 million. The fair market value of the hotel might actually be more than it was when you paid for it, yet you had been able to depreciate that hotel on your tax books for tax purposes for 15 years. It gets a little more complicated than that, but I just want to say that was the thing that first caught my attention on these leases. The other was the extremely low rental that the Federal Government was getting.

What the Government will get in years to come is not going to balance the budget. It is not a large amount. But it does deal with what Congress ought to be alert to all the time, and that is the elemental principle of fairness.

Mr. JOHNSTON. Mr. President, today I am joining with Senator BENNETT and Senator BUMPERS in sponsoring the National Park Service Concession Policy Reform Act of 1995. The legislation that we are introducing today is very similar to a bill which passed both the Senate and House last year by overwhelming margins but failed to clear the Senate in the final days of the 103d Congress.

This legislation, which is supported by the Department of the Interior as well as a number of other conservation and park user groups, would correct the many deficiencies of the 1965 act which currently governs concession operations inside units of the National Park System. It would end the granting of a preferential right of renewal to an incumbent concessioner; it would end the granting of a preferential right of renewal to an incumbent concessioner; it would reformulate the method by which possessory interest is valued; it would establish a competitive bidding procedure to ensure competition and that the Government receives fair value for the privilege of doing business in our national parks; and it would provide that franchise fees and other revenues collected from concessioners are available for use in the parks rather than simply returned to the Federal Treasury.

In this regard, I am pleased that the bill we are introducing today includes language which I offered as an amendment during the committee's deliberations last year which would authorize

the Secretary to establish park improvement funds in the individual park units where franchise fees could be deposited by the concessioner and used at the direction of the Secretary of the Interior for badly needed projects in the parks. This practice is currently followed in several parks, most notably the recent Yosemite contract, and has proven very successful.

I look forward to working with Senators BENNETT, BUMPERS, and others who were supportive of our efforts last year, and hope we can enact this measure early in this Congress.

By Mr. WARNER (for himself and Mr. ROBB):

S. 310. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

THE SHENANDOAH NATIONAL PARK TRANSFER ACT OF 1995

Mr. WARNER. Mr. President, I rise today to once again introduce legislation for myself and Senator ROBB which would authorize the Secretary of Interior to transfer without reimbursement all right, title, and interest in certain lands in Shenandoah National Park to the Commonwealth of Virginia, town of Front Royal, and Warren County School Board.

In order to recognize the need for this legislation one must first understand the history of the creation of the Shenandoah National Park.

In 1923, Stephen Mather, Director of the National Park Service, persuaded Secretary of Interior Hubert Work to appoint a five-member committee to investigate the possibility of establishing a national park in the southern Appalachians. At that time there were no parks in the country east of the Mississippi River. In 1924, the committee was formed to find a site for such a park. Thus began a difficult 11-year effort to establish a park in the southern Appalachians.

On February 21, 1925, President Coolidge signed into law legislation which had been introduced by Senator Swanson of Virginia and Senator McKellar of Tennessee which called for the creation of a national park in the southern Appalachians and the Great Smokey Mountains.

In 1926, Congress authorized the park to be acquired by donation, without the expenditure of any Federal funds. This act did not officially create the parks but set forth the conditions of their establishment although in indefinite terms. The Secretary of Interior and the committee were given the difficult task of raising the necessary funds for land acquisition. Therefore, while there was strong support for the creation of the park, its realization remained highly conditional since no Federal funds would be made available to purchase the park lands.

Although private donations were being made, then-Governor Harry F. Byrd, realized the need to pursue other financing means if sufficient funds to acquire the acreage were to be obtained. In January 1928, Governor Byrd asked the general assembly for a $1 million appropriation to make possible the purchase of park lands. A few days later, the State legislature agreed and appropriated the funds. This $1 million appropriation, coupled with the $1.25 million raised from private sources, enabled Virgina to purchase the necessary acreage to establish the park.

With the financial means in hand, the Virginia General Assembly passed in 1928 the National Park Act which authorized the State Commission on Conservation and Development to acquire land for transfer to the Federal Government to establish the Shenandoah National Park. In that same year, Senator Swanson and Representative Temple—both of Virginia—introduced legislation in both Houses of Congress ''to establish a minimum area for the Shenandoah National Park, for administration, protection, and general development * * * '' This legislation passed both Houses of Congress and was signed into law by President Coolidge on February 16, 1928.

Due largely to the appropriation by the Commonwealth of Virginia and what historians called Virginia's ''heroic land acquisition efforts,'' the necessary acreage was acquired and the land titles were given to the Federal Government. On December 26, 1935, the Shenandoah National Park was officially established.

The Commonwealth's generous donation of lands to the Federal Government for the creation of this great park has now placed the Commonwealth in an unfortunate situation in which the State can no longer maintain the roads within the park. My legislation addresses this situation.

The transfer of land from the Commonwealth to the Federal Government specifically voided all rights of way for road purposes except for U.S. Highway 211 and 33. According to the deeds, the Commonwealth transferred ownership of all other roads and road rights of way on those lands to the Federal Government. Absolutely no reservations were retained by the Commonwealth for such roads.

Since 1935, the National Park Service at Shenandoah National Park has allowed the Commonwealth to maintain existing secondary roads on the fringes of the Park that it wished to maintain through documents called special use permits. The Department of Interior Solicitor General has reviewed the applicable statutes in 16 United States Code and has determined that continuation of these special use permits is not appropriate. Special use permits may be used only to grant a temporary use of lands in national parks. The Solicitor has ruled that the established roads are not a temporary use and require complete ownership and control of the lands by the user. These permits expired over 3 years ago and the Department of the Interior will not reissue them. VDOT has been maintaining the roads without the permits, although there is no guarantee this maintenance can continue. Furthermore, the NPS does not have the necessary equipment to maintain these roads at Shenandoah National Park and, therefore, future maintenance of these roads is in serious question.

Federal law does not allow the National Park Service to convey park land for secondary road purposes. The only legal means to grant the Commonwealth road rights of way is an equal value land exchange authorized under the Land and Water Conservation Fund Act.

Mr. President, facing this dilemma, the Virginia Department of Transportation has acquired land for this purpose, thereby placing the Commonwealth in the position of buying private land to give to the Federal Government to reacquire the right of way of land that the Commonwealth gave away when the park was established.

Due to the unique circumstances of the park's creation, this equal value land exchange requirement is strongly opposed by the local communities and elected officials. I, too, strongly join in this opposition. The Department's position has led to the Virginia General Assembly's passage of a resolution prohibiting the Virginia Department of Transportation from exchanging land for the road segments in the park.

Mr. President, I have introduced legislation to resolve this controversy. My bill would allow the Secretary of Interior to transfer to the Commonwealth, the town of Front Royal, and the Warren County School Board—without reimbursement—all right, title, and interest in and to the roads within the park specified in the legislation.

Due to the Commonwealth's generous donation of lands to the Federal Government for the creation of the park, the Commonwealth should not be required to give the Federal Government additional land in exchange for maintaining and improving roads within the Park.

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

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

S. 310

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

SECTION 1. TRANSFER TO THE COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may convey, without consideration or reimbursement, all right, title, and interest of the United States in and to the roads specified in subsection (c) to the Commonwealth of Virginia, town of Front Royal or Warren County School Board.

(b) CONDITIONS OF CONVEYANCE.—

(1) EXISTING ROADS.—A conveyance pursuant to subsection (a) shall be limited to the roads described in subsection (c) as the roads exist on the date of enactment of this Act.

(2) REVERSION.—A conveyance pursuant to subsection (a) shall be made on the condition that if at any time any road conveyed pursuant to subsection (a) is no longer used as a public roadway, all right, title, and interest in the road shall revert to the United States.

(c) ROADS.—The roads referred to in subsection (a) are those portions of roads within the boundaries of Shenandoah National Park being 50 feet wide measured 25 feet on each side of the existing center line that, as of the date of enactment of this Act, constitute portions of—

(1) Madison County Route 600;
(2) Rockingham County Route 624;
(3) Rockingham County Route 625;
(4) Rockingham County Route 626;
(5) Warren County Route 604;
(6) Page County Route 759;
(7) Page County Route 759;
(8) Page County 682;
(9) Page County Route 662;
(10) Augusta County Route 611;
(11) Augusta County Route 619;
(12) Albermarle County Route 614;
(13) Augusta County Route 661;
(14) Rockingham County Route 663;
(15) Rockingham County Route 659;
(16) Page County Route 669;
(17) Rockingham County Route 661;
(18) Criser Road, (to town of Front Royal); and
(19) Government-owned parcel connecting Criser Road, (to Warren County School Board).

By Mr. MCCAIN (for himself, Mr. CAMPBELL, and Mr. THOMAS):

S. 311. A bill to elevate the position of Director of Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes; to the Committee on Indian Affairs.

INDIAN HEALTH SERVICE LEGISLATION

• Mr. MCCAIN Mr. President, today I am introducing legislation to redesignate the position of the Director of the Indian Health Service [IHS] to that of an Assistant Secretary for Indian Health within the Department of Health and Human Services. I am pleased that Senator BEN NIGHTHORSE CAMPBELL and Senator CRAIG THOMAS have joined me as original cosponsors of this important legislation. Last Congress, I introduced a similar measure which was overwhelmingly passed by the Senate. Unfortunately, the bill was not considered by the House prior to adjournment.

The Indian Health Service is an agency under the Public Health Service within the Department of Health and Human Services. Under the current structure the Indian Health Service Director's authority to set health policy for American Indians is extremely limited. For example, the Indian Health Service Director must report directly to the Assistant Secretary for Health, and yet the Director is responsible for administering the entire branch of the Indian Health Service health care delivery system.

The Indian Health Service consists of 143 service units composed of over 500 direct health care delivery facilities, including 49 hospitals, 176 health centers, 8 school centers, and 277 health stations and satellite clinics and Alaska village clinics. It provides services ranging from facility construction to pediatrics, and serves approximately 1.3 million American Indians and Alaska Native individuals each year. The IHS serves the most impoverished population in the United States. American Indian and Alaska Native populations are afflicted by diabetes at a rate that overwhelmingly exceeds other national populations. American Indian and Alaska Native populations continue to suffer from mortality rates that exceeds all other segments of our population for tuberculosis, alcoholism, accidents, homicide, pneumonia, influenza, and suicides. American Indians have also experienced a tremendous increase in the number of individuals contracting HIV and AIDS. Yet, today American Indians and Alaska Natives are among the least served and the most forgotten when it comes to improving America's health care delivery systems.

There are several critical reasons which lead me to believe that this legislation is necessary. First, designating the IHS Director as an Assistant Secretary of Indian Health would provide the various branches and programs of the IHS with better advocacy within the Department and better representation during the budget process. The IHS Director currently relies on the Assistant Secretary for Health to advocate for these programs.

Last Congress, the Principal Deputy to the Assistant Secretary for Health at the Department of Health and Human Services testified before the Senate Committee on Indian Affairs that a priority within the Department was to listen to the health care delivery concerns of Indian country. Obviously, this message was never received. At the same time that the Department was listening to Indian country, the funding request to meet Indian health care needs was dramatically cut at every level of the administration by the Public Health Service, the Department of Health and Human Services, and the Office of Management and Budget. As a result of this process, the President's budget for the IHS for fiscal year 1995 called for a $247 million reduction and the elimination of nearly 2,000 staff positions. Once all of the budget gimmicks were eliminated, such as the incredible assumption that the IHS would be able to increase third-party collections by 463 percent, the IHS budget cuts surpassed $300 million. At the same time, the Department was listening to the calls of Indian country for resources to meet the growing health problems in Indian country.

I am convinced that neither the Public Health Service, the Secretary for Health and Human Services, or the Office of Management and Budget have an adequate understanding of the day-to-day health care needs of American Indians. Therefore, I believe that the IHS is in dire need of a senior policy person who is both knowledgeable about the programs administered by the IHS and can strongly advocate for the health care needs of Indians and Alaska Natives.

Second, an Assistant Secretary for Indian Health would eliminate unnecessary bureaucracy that plagues the Indian Health Service system and permit timely decisions to be made regarding important Indian health care issues. For example, an Assistant Secretary for Indian Health would have the authority and ability to communicate directly with the other operating divisions within the HHS. Requesting the expertise and assistance of other HHS departments on problems of alcohol and substance abuse, HIV/AIDS, and child abuse for American Indians and Alaska Natives would be easier and have more far-reaching results. Currently, the IHS Director must forward such requests for assistance through the Assistant Secretary for Health.

Third, an Assistant Secretary for Indian Health would have the ability to call on private sector organizations that have not traditionally focused on Indian health care needs and concerns, but who have the expertise and resources that can enhance IHS' ability to deliver the highest quality of health care, by providing technical assistance to Indian tribes who choose to operate their own health care programs.

Finally, I would like to clarify a couple of points relating to section 2 of the bill. Section 2 of the bill provides for the organizational independence of the Indian Health Service within the Department of Health and Human Services. This section is necessary because the IHS is currently an agency of the Public Health Service which is headed by the Assistant Secretary for Health. Creating an Assistant Secretary for Indian Health will require relocating the IHS to the same organizational level as the Public Health Service.

Section 2 also clarifies that this bill is not intended to diminish the ability of the IHS to utilize the service of the U.S. Public Health Service Commissioned Corps. While I certainly hope that the HHS would not prohibit the IHS from being served by the Commissioned Corps personnel in the delivery of health care to the Indian people, in light of the prevoius budget and staff reductions recommended by the Clinton administration I am compelled to insert bill language to make clear the intent of the Congress on this particular matter.

Mr. President, the Senate passage of this legislation last Congress indicates that this legislation is long overdue. Redesignating the Director as an Assistant Secretary for Indian Health would not only reaffirm the special relationship that exists between Indian tribes and the Federal Government, it would send a powerful message to Indian country. At a time when the Nation focuses on health care reform, it is

critical that the health care needs of the American Indian are taken into consideration. For those in the administration and the Congress who would make a plea for a national health care system, passing this legislation would serve as an example of a commitment to improving this Nation's first health care system for Americans, the Indian Health Service.

Mr. President, I ask unanimous consent that the full text of the bill and section-by-section be printed in the RECORD.

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

S. 311

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

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Office of the Assistant Secretary for Indian Health.

(b) ASSISTANT SECRETARY OF INDIAN HEALTH.—In addition to the functions performed on the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services may designate.

(c) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Director of the Indian Health Service shall be deemed to refer to the Assistant Secretary for Indian Health.

(d) RATE OF PAY.—(1) Section 5315 of title 5, United States Code, is amended by striking the following:

''Assistant Secretaries of Health and Human Services (6).'';

and inserting the following:

''Assistant Secretaries of Health and Human Services (7).''.

(2) Section 5316 of such title is amended by striking the following:

''Director, Indian Health Service, Department of Health and Human Services.''.

(e) CONFORMING AMENDMENTS.—(1) Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661) is amended—

(A) in the second sentence of subsection (a), by striking ''a Director,'' and inserting ''the Assistant Secretary for Indian Health,'';

(B) in the fourth sentence of subsection (a), by striking ''the Director'' and inserting ''the Assistant Secretary for Indian Health'';

(C) by striking the fifth sentence of subsection (a); and

(D) by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''.

(2) The following provisions are each amended by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health'':

(A) Section 816(c)(1) of the Indian Health Care Improvement Act (25 U.S.C. 1680f(c)(1)).

(B) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761b(a)(1)).

(C) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377 (b) and (e)).

(D) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)).

SEC. 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITHIN DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) ORGANIZATION.—Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661), as amended by section 1(e)(1), is further amended—

(1) by striking ''within the Public Health Service of the Department of Health and Human Services'' each place it appears and inserting ''within the Department of Health and Human Services''; and

(2) in the third sentence of subsection (a), by striking ''report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services'' and inserting ''report to the Secretary''.

(b) CONFORMING AMENDMENT.—The section heading of such section is amended to read as follows:

''ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF DEPARTMENT OF HEALTH AND HUMAN SERVICES''.

(c) UTILIZATION OF PUBLIC HEALTH SERVICE PERSONNEL.—Nothing in this section may be interpreted as terminating or otherwise modifying any authority providing for the utilization by the Indian Health Service of officers or employees of the Public Health Service for the purposes of carrying out the responsibilities of the Indian Health Service. Any officers or employees so utilized shall be treated as officers or employees detailed to an executive department under section 214(a) of the Public Health Service (42 U.S.C. 215(a)).

SECTION-BY-SECTION ANALYSIS

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH

Subsection (a) establishes the Office of the Assistant Secretary for Indian Health within the Department of Health and Human Services.

Subsection (b) provides that the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services may designate in addition to the functions performed by the Director of the Indian Health Service (IHS) on the date of the enactment of this Act.

Subsection (c) provides that references to the IHS Director in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document shall be deemed to refer to the Assistant Secretary for Indian Health.

Subsection (d) amends Title 5 section 5315 of the U.S.C. by striking ''Assistant Secretaries of Health and Human Services (6)'' and inserting ''Assistant Secretaries of Health and Human Services (7)''. Subsection (d) further amends section 5316 of title 5 by striking ''Director, Indian Health Service, Department of Health and Human Services''.

Subsection (e) provides for conforming amendments in the Indian Health Care Improvement Act. Subsection (e) further amends the Indian Health Care Improvement Act, the Rehabilitation Act of 1973, the Federal Water Pollution Control Act, and the Native American Programs Act of 1974 by striking ''Director of the Indian Health Service'' and inserting in lieu thereof ''the Assistant Secretary for Indian Health''.

SECTION 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITHIN DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subsection (a) amends section 601 of the Indian Health Care Improvement Act by striking ''within the Public Health Service of the Department of Health and Human Services'' each place it appears and inserting ''within the Department of Health and Human Services, and striking ''report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services'' and inserting ''report to the Secretary''.

Subsection (b) amends the heading of section 601 of the Indian Health Care Improvement Act.

Subsection (c) provides that nothing in this section may be interpreted as terminating or otherwise modifying any authority providing for the IHS to use Public Health Service officers or employees to carrying out the purpose and responsibilities of the IHS.

Subseciton (c) further states that any officers or employees used by the IHS shall be treated as officers or employees detailed to an executive department under section 214(a) of the Public Health Service.●

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 312. A bill to provide for an Assistant Administrator for Indian Lands in the Environmental Protection Agency, and for other purposes; to the Committee on Indian Affairs.

THE ASSISTANT ADMINISTRATOR FOR INDIAN LANDS ACT FOR 1995

● Mr. MCCAIN. Mr. President, today I am introducing a bill to provide for an Assistant Administrator for Indian Lands in the Environmental Protection Agency [EPA]. I want to thank my friend, the distinguished Senator from Hawaii and the vice chairman of the Committee on Indian Affairs, Senator INOUYE, for joining with me as an original cosponsor of this bill.

The bill we are introducing today would establish the position of Assistant Administrator for Indian Lands at EPA. The President would appoint this individual, subject to confirmation by the Senate. The Assistant Administrator for Indian lands would be responsible for coordinating and implementing Federal environmental laws and all EPA activities with respect to Indian lands, including the 1984 Indian policy.

This bill is similar in concept to an amendment which I offered in the last Congress to provide for an Assistant Secretary for Indian lands in the proposed Department of the Environment. That amendment won the overwhelming bipartisan support of the Senate with 79 Senators voting in favor of it. As we all know, no final action was taken by the House of Representatives on the issue of cabinet status for EPA. Many Indian tribal governments supported the Senate's action in the 103d Congress, and I fully expect that there will be strong support for the bill we are introducing today.

I want to take a moment to express my gratitude to Administrator Browner for the actions she has taken in the past year to establish a Tribal Operations Committee and an American Indian Environmental Office within EPA which is under the leadership of a highly qualified native American, Mr. Terry Williams. Each of these actions reflects a sincere commitment on the part of the Administrator to try to ensure that EPA addresses environmental protection on Indian lands.

While I support the actions which have been taken by Administrator

Browner, I believe that much more needs to be done. Issues involving Indian land must be addressed at the highest policy levels of EPA on a consistent basis. This will only occur when the Indian tribes are assured a seat at the policy table. The bill we are introducing today will provide that assurance.

Indian lands comprise nearly 5 percent of all of the lands in the United States. This is an area equal to the size of New England and the States of Maryland, Delaware, and New Jersey combined. The Navajo Nation alone is equal to the size of the State of West Virginia.

Mr. President, the environmental problems on Indian lands in the United States are serious, widespread, and complex:

There are at least 600 solid waste landfills on Indian lands that do not meet Federal standards. Many of these sites are potentially hazardous.

Federal officials have testified before the Committee on Indian Affairs that of 108 sanitary landfills constructed by the Federal Government on Indian lands, no more than 2 are in compliance with EPA regulations.

The Pine Ridge Reservation in South Dakota has contaminated drinking water from uranium mining and numerous unsanitary landfills.

Landfills located on the Devil's Lake Sioux Reservation in North Dakota and the Oneida Reservation in Wisconsin have been described as being laced with arsenic, mercury, and other illegally dumped chemicals.

The Navajo Reservation in New Mexico, Arizona, and Utah has an estimated 1,000 sites polluted by old uranium mines or uranium waste. Navajo officials have testified that there are as many as 1,200 open solid waste dumps on the reservation, some of which were built and used by Federal agencies.

Mercury pollution on Seminole land in Florida threatens fishing and the gathering of food.

The worst spill of low-level radioactive waste in American history occurred 13 years ago at a uranium mine on the Navajo Reservation in New Mexico.

I want to remind my colleagues that these environmental maladies are afflicting the very poorest communities in the United States. Unemployment in Indian country averages 50 percent and on some reservations exceeds 90 percent. More than 15 percent of Indian homes lack basic sanitation facilities—rate eight times worse than the rest of the United States. On the Navajo Reservation alone, more than 11,000 homes lack running water and sewage disposal.

These disturbing facts have a definite cost in human lives. According to the Indian Health Service, over half of the infant deaths in Navajo country in 1989 occurred in homes without running water.

In monetary terms, the funds that are needed to address environmental problems on reservations are enormous, and far beyond the scarce resources of most Indian tribes. The Indian Health Service has estimated that the unmet needs of tribes for health related water systems, sewage treatment, and solid waste disposal are at least $700 million.

A 1989 EPA report found that since 1972, $48 billion in Federal funds had been awarded to the States to construct wastewater treatment facilities, but only $25 million had been made available to the Indian tribes by the States. The same EPA report estimated that the tribes will need at least $470 million to comply with the wastewater treatment provisions of the Clean Water Act.

Since 1986, the Congress has acted to ensure that Indian tribes are eligible for treatment as States under the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and Superfund. We have enacted the Indian Environmental Regulatory Enhancement Act and the Indian Environmental General Assistance Act to authorize funding to assist Indian tribes in the development of environmental regulatory capacity. Funding from EPA to the tribes has steadily increased since the announcement in 1984 of EPA's Indian policy. All of these steps were important, but the record clearly demonstrates that much more must be done.

The bill we are introducing today constitutes another important step in the process of ensuring that Indian lands receive the full measure of environmental protection afforded to other areas of the United States. I urge my colleagues to support this bill.

I ask unanimous consent that the bill and a summary of it be printed in the RECORD.

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

S. 312

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

SECTION 1. ASSISTANT ADMINISTRATOR FOR INDIAN LANDS.

(a) IN GENERAL.—

(1) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint within the Environmental Protection Agency an Assistant Administrator for Indian Lands.

(2) COMPENSATION.—The Assistant Administrator for Indian Lands appointed under this subsection shall be compensated at a rate provided for in level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) DUTIES.—The Assistant Administrator for Indian Lands appointed under this section shall—

(1) coordinate the activities of the Environmental Protection Agency with respect to Indian lands and federally recognized Indian tribes; and

(2) implement the stated policy of the Environmental Protection Agency commonly referred to as the ''1984 Indian Policy''.

(c) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Administrator for Indian Lands, Environmental Protection Agency.''.

SECTION-BY-SECTION SUMMARY

Section 1. Subsection (a) of this section provides that the President shall appoint an Assistant Administrator for Indian Lands in the Environmental Protection Agency (EPA). The appointee is subject to Senate confirmation and will be compensated as a level V Executive branch employee.

Subsection (b) provides that the Assistant Administrator for Indian Lands will coordinate all of the activities of EPA with respect to Indian lands and federally recognized Indian tribes, including the implementation of the 1984 Indian Policy.

Subsection (c) is a conforming amendment to section 5316 of title 5 of the United States Code.

● Mr. INOUYE. Mr. President, I am pleased to join Chairman JOHN MCCAIN of the Committee on Indian Affairs in introducing legislation which would provide for the creation of an assistant administrator for Indian Lands within the Environmental Protection Agency.

Mr. President, in 1984, the Environmental Protection Agency [EPA] adopted an Indian policy. In the ensuing 10 years, major environmental statutes have been amended to recognize the importance of tribal governments in the administration of environmental regulatory activities on Indian lands. Its record of action makes clear that the Environmental Protection Agency is committed to achieving the goals of its Indian policy.

Mr. President, I would like to take this opportunity to commend the head of the Environmental Protection Agency, Administrator Carol M. Browner, for initiating efforts to improve communications with Indian tribal governments through the recent establishment of the new Indian Environmental Office in EPA.

However, although we have accomplished a great deal working together, it is also clear that our work is not complete.

This legislation will be a key to the continued successful implementation on the Environmental Protection Agency's Indian policy by ensuring that the Agency develops a national infrastructure to protect and ensure equitable treatment for Indian tribal governments comparable to the treatment afforded the programs that are administered by the several States.

Mr. President, one of the obstacles to effective implementation of EPA's Indian policy has been the lack of involvement, including line authority, in decisionmaking processes. The solution is to authorize critical positions in the chain of command. The process of reviewing Agency actions for their consistency with EPA's Indian policy must be institutionalized; it must become second nature to all levels of the Environmental Protection Agency organizational structure.

Mr. President, I believe that the creation of an assistant administrator for

Indian lands would be an effective means of addressing this problem.

The assistant administrator would have responsibility for ensuring that the decisions and actions of the central or regional offices are consistent with EPA's Indian policy in areas ranging from major policy and legislative initiatives to the most basic programming decisions.

This legislation will continue to move the Environmental Protection Agency in a direction that will enhance environmental quality on reservation lands and help build strong tribal governmental capacity for the management of the environment in Indian country.

Mr. President, I urge my colleagues to give their careful consideration to this legislation.●

By Mr. EXON (for himself and Mr. GORTON):

S. 314. A bill to protect the public from the misuse of the telecommunications network and telecommunications devices and facilities; to the Committee on Commerce, Science, and Transportation.

THE COMMUNICATIONS DECENCY ACT

● Mr. EXON. Mr. President, I am pleased to introduce legislation to expand the decency provisions of the Communications Act of 1934 to clearly cover the new technologies which are increasingly part of the American way of life.

As a strong supporter of telecommunications reform, I am anxious to pass legislation which will free the private sector to create the information superhighway. This exciting technology will put unprecedented information power into the hands of every citizen. The opportunities for education, culture, and entertainment are limitless.

Sadly, there is a dark side to the bright flicker of the computer screen. The explosion of technology also threatens an explosion of misuse. The legislation I introduce today, known as the Communications Decency Act, establishes legal protections against that misuse.

It modernizes the current law against telecommunications misuse in the digital age.

This legislation will extend and strengthen the protections which exist against harassing, obscene, and indecent phone calls to cover all such uses of all telecommunications devices and increase the penalties for misuse of the public switched network.

This much-needed legislation increases the penalties for obscene cable and radio broadcasts. The bill also insures that adult pay-per-view programs are fully scrambled, so that homes which do not subscribe to such services are not invaded by unwanted audio or video. The legislation also prohibits the use of toll free 800 numbers from being used as a ruse to charge callers or telephone numbers for adult and other pay-per-call services.

In addition, the legislation modernizes the protections against unauthorized eavesdropping on conversations, electronic or digital communications.

In addition, this legislation includes provisions Senator GORTON and I crafted last year to give cable operators the power to refuse to transmit any public access or leased access program or portion of such program which includes obscenity, indecency, or nudity.

Mr. President, the information superhighway should not become a red light district. This legislation will keep that from happening and extend the standards of decency which have protected telephone users to new telecommunications devices.

Once passed, our children and families will be better protected from those who would electronically cruise the digital world to engage children in inappropriate communications and introductions. The Decency Act will also clearly protect citizens from electronic stalking and protect the sanctuary of the home from uninvited indecencies.

Mr. President, to illustrate the need for this legislation, I ask unanimous consent that a Washington Post article be included in the RECORD. The article warns parents about the dangers of pedophiles who use computers to lure children. It is a sad day in America when this type of warning is necessary.

Mr. President, I urge all my colleagues to carefully study this important legislation. It was approved last year by the Senate Commerce Committee as a part of the Communications Act of 1994.●

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

[From the Washington Post, Aug. 2, 1994]

MOLESTING CHILDREN BY COMPUTER

(By Sandy Rovner)

Those amazing computer games, bulletin boards and E-mail services that bedazzle children and bewilder many parents may not be as benign as they appear.

Some of them, in fact, may be prowled by real-life villains every bit as evil as those in the fantasy games the youngsters play online.

''You can become very close to people very quickly when you're on-line,'' says Dan Fisher, a Palm Bay, Fla., police investigator and a member of the Law Enforcement Electronic Technology Assistance Committee, part of a new effort to make police as familiar with the computer world of virtual reality as these savvy criminals. Law enforcement officials say that children, often not realizing the danger, sometimes give out their names, addresses and phone numbers to people they meet over the computer network. This makes them vulnerable targets for a number of illegal activities, including sexual abuse, officials say.

For people who have computers with modems that allow them to call outside the home and connect up with networks, there are a number of online services, such as Prodigy, America on Line and Compuserve, that offer a wide variety of options to users. Included in these services are forums called bulletin boards that allow users to talk electronically with other users by posting public notes. These boards are divided into special interests, such as arts, television, lifestyles, seniors, health or teens. These permit individuals to contact other computer users privately by sending electronic mail, known as E-mail, through the Internet, the vast network of computer connections throughout the world.

Although there are laws banning transmission of child porn by computer, the FBI does not monitor bulletin boards, and, in a special statement issued recently on computer bulletin boards, it notes that it does not keep statistics on the problem. Law enforcement efforts are complicated by the fact that E-mail transmissions are ''regarded as having the same privacy rights of surface mail,'' the FBI statement noted.

Frank Clark, a computer crime specialist in Fresno, Calif., who helps teach other police departments about electronic crimes, said there are about 25,000 private boards on the Internet in the country. Yet, ''we found that virtually no one was working those kinds of crimes at all,'' he said.

He travels throughout the United States and Canada giving courses to law enforcement agencies on computer crimes. He cites one episode at a meeting last month in Ottowa at which he had a group of investigators sign on to a major computer service with false identifications and pretend to be children. ''Then I had them post a couple of innocuous messages on teens' boards,'' he says. ''The next day we had solicitations for nude pictures, phone sex and offers to meet in person for sex.''

Myrna Blinn, an Idaho grandmother, has worked with child abuse groups for years and is among a number of volunteers who warn teenagers via computer bulletin boards not to give away too much personal information to overly friendly electronic mail pals.

She said she received an anguished E-mail letter from a 14-year-old girl who had been corresponding on-line with someone she thought was a teenage boy. She had given him her phone number, but the boy turned out to be a 51-year-old man and he began barraging her with indecent phone calls. She was afraid to tell her family. Blinn and two of her friends confronted the man electronically and turned over information about him to police officials, who are investigating the case. They have arranged for the girl to get counseling.

Clark believes the tide is beginning to turn as parents and law enforcement officials are recognizing the possibility of problems. Computer services are also beginning to monitor their bulletin boards and helping police stop any unlawful activities, he said.

Despite increasing concerns, parents are often stymied in their efforts to monitor their kids because ''the children are more computer-literate than the parents,'' Clark says. To counter that, Clark and his colleagues have developed a brochure they distribute at schools, churches and community meetings. It recommends:

If possible, keep the computer in a common area of the home. If a modem is being used, monitor times and numbers dialed.

Know the warning signs of ''computer addiction'' to make sure children aren't becoming obsessed with the computer service. One clue is the storage of computer files ending in GIF, JPG, BMP, TIF, PCX, DL and GL. ''These,'' the brochure notes, ''are video or graphic image files and parents should know what they illustrate.''

The brochure also offers ''Tips for Safe Computing'' for teens and parents.

Never give out personal information, especially full names, addresses or financial information, to anyone you meet on computer bulletin boards.

Never respond to anyone who leaves you ''obnoxious, sexual or menacing E-mail.''

Never set up face-to-face meetings with anyone you meet on a bulletin board.

The brochure also urges parents to notify police of ''all attempts by adults to set up meetings with your children. This is by far the most dangerous situation for children.''

By Mrs. KASSEBAUM (for herself and Mr. DOLE):

S. 322. A bill to amend the International Air Transportation Competition Act of 1979; to the Committee on Commerce, Science, and Transportation.

THE WRIGHT AMENDMENT REPEAL ACT OF 1995

Mrs. KASSEBAUM. Mr. President, the distinguished Republican leader, Senator DOLE, joins with me today in offering this bill to address an injustice that has developed out of current law. The bill would repeal a restriction in the International Air Transportation Competition Act of 1979 pertaining to air carrier service at Dallas' Love Field. There is now broad recognition of the anticompetitive situation that has developed because of this section of law, and it is our intent to resolve the unfairness of this situation.

The restriction which this bill seeks to repeal was originally passed to protect the then-relatively new Dallas-Fort Worth International Airport [DFW] and ensure that commercial air carriers moved from Love Field to the new airport. Today, DFW is the third busiest airport in the country. The gates at DFW are full, and planes wait in long lines for takeoff. It is clear that DFW has reached a point where it no longer needs to be protected from competition.

Under current law, commercial air carriers are prohibited from providing service between Dallas' Love Field and points located outside of Texas or its four surrounding States. This effectively limits travel into and out of this airfield to destinations only in Texas, Louisiana, Oklahoma, Arkansas, and New Mexico. Flights originating from any other State must fly into the Dallas-Fort Worth airport in order to have access to the highly traveled Dallas area. This limitation on flights into Love Field is arbitrary and, in many cases, forces passengers to pay artificial and unreasonably high air fares. Moreover, the restriction causes unnecessary delay and inconvenience for passengers attempting to fly into or out of Love Field from cities outside Texas and its four contiguous States.

The criteria the current law uses to restrict flights into Love Field—that a flight must originate in Texas or one of its contiguous States—are not based on any standard appropriate for the airline industry. It is not based on the number of miles flown. It is not based on the size of the city served. It is not based on the amount of noise generated by an aircraft. Instead, it is based on State boundaries that were in place long before the Wright brothers began flying airplanes.

Today, planes are allowed to fly directly from Love Field to El Paso which is 576 miles from Dallas. Yet, direct flights are prohibited between Love Field and many cities which are much closer to Dallas, such as St. Louis, Kansas City, Memphis, Birmingham, and Wichita. This makes no sense.

Mr. President, a great deal has been written recently about unwanted and unnecessary Government rules and regulations. People are frustrated by Government rules that are out of touch with reality, that lack common sense. I think the Wright amendment is a prime example of why so many people have lost confidence in their Government.

In addition to being a law based on policial concerns rather than practical realities, the Wright amendment has distorted the free market. For a number of Americans, the restrictions on Love Field have forced them to pay more to travel to Dallas than their neighbors. Again, this is regardless of the flight distance or the size of the city served by the flight. The reason for this absurd situation is that the one airline which serves Love Field is the low-cost carrier for the market, Southwest Airlines. In those cases where Southwest is allowed to compete with the major airlines for direct flights to Dallas, the cost of a ticket to Dallas is dramatically cheaper than when restrictions prevent Southwest from offering competitive flights.

Another effect of the Love Field restrictions is that they work a terrible inconvenience for those travelers located outside of Texas and the contiguous States who choose to take a nondirect flight to Dallas on Southwest Airlines. Passengers in this situation are not allowed to buy a round-trip ticket to Dallas on a flight which has a stop-over in a city that meets the Love Field restrictions. Instead, these passengers must buy two round-trip tickets. One round-trip ticket to a city in Texas or one of the contiguous States and another from that city to Dallas. This requires the travelers not only to change planes in the connecting city but to collect their baggage and recheck it to Dallas. The unnecessary inconvenience of having to collect and recheck baggage can be especially difficult for the elderly, the disabled, or those traveling with small children.

To allow this situation to continue would be to condone anticompetitive law and to encourage discrimination against many for the benefit of a few. I believe it is essential to encourage competition within the transportation community in order to protect the interests of the traveling public. The case with Love Field is no different than that of all the other small airfields across the country, none of which is restricted based on their location. Love Field has been subject to this unique statute for more than 15 years, and it big time to close this loophole.

Mr. DOLE. Mr. President, today I join my distinguished colleague from Kansas, Senator KASSEBAUM, to introduce legislation to repeal the so-called Wright amendment. Senator KASSEBAUM and I have been working to repeal this anti-competitive regulation which restricts commercial airline flights to and from Dallas Love Field. Make no doubt about it, the time to act is now.

Last year's U.S. Supreme Court decision which let the Wright amendment stand makes the legislation we are introducing all the more important. I stated at the time the decision was issued that I would continue to work to ground the Wright amendment and protect air travelers from getting gouged and now the only relief for the traveling public is through this legislation we are offering today.

The Wright amendment was originally introduced to protect the fledgling Dallas-Forth Worth [DWF] International airport. This airport is now one of the busiest airports in the Nation. Dallas is the top destination for passengers flying from Wichita, and there is no reason they should not have the option of flying into Love Field or Dallas-Forth Worth airports. This regulation not only places restrictions on passengers from Kansas, but from 44 States across the Nation. In my view, the DWF airport no longer needs protection, and it is time to lift the restrictions on Love Field.

The restrictions placed on flights from Love Field 15 years ago deny affordable air transportation to citizens of my State and States throughout a vast portion of our country which do not fall into the limitations of the Wright amendment. The restrictions make it impossible to fly directly into Love Field except for those flights originating within Texas and States neighboring Texas. Not only is it impossible to take a direct flight, but if you are flying into Love Field, a passenger is required to purchase separate tickets, reclaim baggage, and change planes in these neighboring States. Let's assume this passenger is traveling from Wichita. At Oklahoma City, the passenger, having used the first ticket must change aircraft. And not just that, the passenger must take physical possession of all checked baggage, haul the baggage back to the ticket counter and recheck the baggage for the flight into Love Field.

A 1992 U.S. Department of Transportation study reported that these restrictions cost air travelers $183 million a year in higher air fares. That's why Kansans have been demanding the repeal of the so-called Wright amendment—they're tired of higher air fares, reduced travel options, and a distinct second-class status for Kansas air travelers.

Not only are Kansans inconvenienced, but Texans as well. I have a letter from a Texan who has to fly to the connecting airport in another State to assist her mother in a wheelchair who must ''change planes, meet her there, transfer her luggage, and recheck her onto another flight.'' I would like to

enter her letter of concern in the RECORD.

The Wright amendment is a burden for Kansas consumers and a barrier to economic development. It's high time we grounded the Wright amendment.

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

NOVEMBER 29, 1994.

Re: Wright amendment—its repeal.

Hon. ROBERT DOLE.

U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I agree with you 100 percent—the Wright Amendment restricting the use of Love Field in Dallas, Texas, is wrong, wrong, wrong!

I believe the amendment needs to be challenged in terms of the Americans Disability Act. It is my understanding that the purpose of this act is to give better access to public places to people with a disability. I feel this right is being severely restricted by the Wright Amendment. It is almost impossible for a person with a walker, wheelchair, crutches, etc. to disembark from a Southwest flight, get to baggage claim, pick up their luggage, and get rechecked at another gate, without considerable inconvenience, pain, and discomfort. Have you ever tried to carry luggage and manipulate a wheelchair, crutches, or the like? This is certainly not granting better access.

My mother is 82 years old and was faced with that very problem. She is in a wheelchair and was unable to accomplish all of the above. The fares were prohibitive for her to fly with another airline. I had to fly to the airport where she had to change planes, meet her there, transfer her luggage, and recheck her onto another flight. It seems to me that the Wright Amendment unfairly discriminates against the elderly and people with a handicap.

I think on these grounds the Wright Amendment should be challenged and eliminated. I would be more than happy to work with you or any other group that is interested in pursuing this course of action. Repeal of the Wright Amendment is becoming a mission in my life.

Sincerely,

PAULETTE B. COOPER.

DALLAS, TX.

P.S. I noticed recently that Continental Airline is being given access to several gates at Love Field. Will the Wright Amendment affect them in the same ways that it affects Southwest Airlines? If not, why not?

By Mrs. KASSEBAUM.

S. 323. A bill to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL REPEAL ACT OF 1995

● Mrs. Kassebaum. Mr. President, I introduce legislation to eliminate the National Education Standards and Improvement Council [NESIC]. NESIC was created by the Goals 2000: Education America Act signed into law last year for the purpose of reviewing and certifying voluntary national education standards.

The recent controversy over proposed standards in the field of history underscore the difficulties with any Federal involvement in the standard-setting process. No matter how much one might emphasize the voluntary nature of any standards, the perception remains that the Federal Government is prescribing a uniform curriculum for our Nation's students.

Writing recently about the history standards, University of Chicago history professor Hanna Holborn Gray observed:

> The trouble with the ''national standards'' is not that they are far-out, or radically revisionist, or aimed at brainwashing the impressionable young. * * * No, the real trouble with the national standards, is that they exist at all—or exist under that title and under quasi-official auspices and with some kind of ''certification'' in the offing.

As one who believes strongly that the strength of our education system lies in its local base and community commitment, I do not believe it is appropriate to expand Federal involvement into areas traditionally handled by States and localities. For this reason, I was troubled when we first started down the path of providing Federal funding for the development of national standards—an action which predated the enactment of the Goals 2000 legislation.

One reason I opposed the Goals 2000 legislation is that it took Federal activities in this area yet another step further by including an authorization for a national council—NESIC—to review and certify the national standards. The existence of such a council only serves to sow further confusion regarding whether the standards are truly voluntary.

As has been repeatedly emphasized in various congressional debates on this subject, there is no Federal law which requires that these standards be adopted or used by any State or school district. Although standards in various subject areas have been developed with the support of Federal funds, they have been designed by professionals in the field, not by Federal employees as some may think. However, there is still great confusion and serious concern by the public about the nature of the Government's involvement in this whole endeavor.

I believe it is time to clear up some of this public confusion and concern. My bill will help do that by getting the Federal Government out of the loop in an area which I believe is best handled by States and localities. Most of our States are already developing standards with the input of their own teachers and parents. Those States clearly do not need to have a Federal seal of approval to validate their efforts.

I urge my colleagues to join me in this effort. Mr. President, I ask unanimous consent that the text of my bill and a summary of its provisions be included in the RECORD.

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

S. 323

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

SECTION 1. ELIMINATION OF THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.

(a) AMENDMENT.—Part B of title II of the Goals 2000: Educate America Act (20 U.S.C. 5841 et seq.) is amended to read as follows:

''PART B—NATIONAL STANDARDS

''SEC. 211. PROHIBITION OF FEDERAL FUNDING FOR THE DEVELOPMENT OF NATIONAL STANDARDS.

''No Federal agency shall expend Federal funds for the development or dissemination of model or national content standards, national student performance standards, or national opportunity-to-learn standards.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on January 1, 1995.

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GOALS 2000: EDUCATE AMERICA ACT.—

(1) The table of contents for the Goals 2000: Educate America Act is amended, in the items relating to title II, by striking the items relating to part B of such title and inserting the following:

''PART B—NATIONAL STANDARDS

''Sec. 211. Prohibition of Federal funding for the development of national standards.''.

(2) Section 3(a)(7) of such Act (20 U.S.C. 5802(a)(7)) is amended by striking ''voluntary national content standards or''.

(3) Section 201 of such Act (20 U.S.C. 5821) is amended—

(A) in paragraph (1), by inserting ''and'' after the semicolon;

(B) in paragraph (2), by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

(4) Section 203(a) of such Act (20 U.S.C. 5823(a)) is amended—

(A) by striking paragraphs (3) and (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

(5) Section 204(a) of such Act (20 U.S.C. 5824(a)) is amended—

(A) by striking all beginning with ''(a) HEARINGS.—'' through ''shall, for'' and inserting ''(a) HEARINGS.—The Goals Panel shall, for''; and

(B) by striking paragraph (2).

(6) Section 241 of such Act (20 U.S.C. 5871) is amended—

(A) in subsection (a), by striking ''(a) NATIONAL EDUCATION GOALS PANEL.—''; and

(B) by striking subsections (b) through (d).

(7) Section 304(a)(2) of such Act (20 U.S.C. 5884(a)(2)) is amended—

(A) in subparagraph (A), by adding ''and'' after the semicolon;

(B) in subparagraph (B), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (C).

(8) Section 308(b)(2)(A) of such Act (20 U.S.C. 5888(b)(2)(A)) is amended by striking ''including'' and all that follows through ''of title II;'' and inserting ''including through consortia of States;''.

(9) Section 312(b) (20 U.S.C. 5892(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(10) Section 314(a)(6) of such Act (20 U.S.C. 5894(a)(6)) is amended by striking '', if—'' and all that follows through ''populations''.

(11) Section 315 of such Act (20 U.S.C. 5895) is amended—

(A) in subsection (b)—

(i) by striking paragraph (2);

(ii) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(iii) in paragraph (1)(A), by striking ''paragraph (4) of this subsection'' and inserting ''paragraph (3)'';

(iv) in subparagraph (B) of paragraph (2) (as redesignated by clause (ii)), by striking ''and the voluntary national content'' and all that follows through ''differences'';

(v) in subparagraph (B) of paragraph (3) (as redesignated by clause (ii)), by striking ''paragraph (5),'' and inserting ''paragraph (4),''; and

(vi) in paragraph (4) (as redesignated by clause (ii)), by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (3)'';

(B) in the matter preceding subparagraph (A) of subsection (c)(2), by striking ''subsection (b)(4)'' and inserting ''subsection (b)(3)''; and

(C) in subsection (f), by striking ''subsection (b)(4)'' each place it appears and inserting ''subsection (b)(3)''.

(12) Section 316 of such Act (20 U.S.C. 5896) is repealed.

(13) Section 503 of such Act (20 U.S.C. 5933) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''28'' and inserting ''27'';

(II) by striking subparagraph (D); and

(III) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively;

(ii) in paragraphs (2), (3), and (5), by striking ''subparagraphs (E), (F), and (G)'' each place it appears and inserting ''subparagraphs (D), (E), and (F)'';

(iii) in paragraph (2), by striking ''subparagraph (G)'' and inserting ''subparagraph (F)'';

(iv) in paragraph (4), by striking ''(C), and (D)'' and inserting ''and (C)''; and

(v) in the matter preceding subparagraph (A) of paragraph (5), by striking ''subparagraph (E), (F), or (G)'' and inserting ''subparagraph (D), (E), or (F)''; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking ''subparagraph (E)'' and inserting ''subparagraph (D)''; and

(ii) in paragraph (2), by striking ''subparagraphs (E), (F), and (G)'' and inserting ''subparagraphs (D), (E), and (F)''.

(14) Section 504 of such Act (20 U.S.C. 5934) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(b) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) Section 2102(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6622(c) is amended—

(A) in paragraph (6), by striking ''including information on voluntary national content standards and voluntary national student performance standards''; and

(B) in paragraph (7)—

(i) by striking ''voluntary national content standards,''; and

(ii) by striking '', voluntary national student performance standards''.

(2) Section 2402(3)(A) of such Act (20 U.S.C. 6702(3)(A)) is amended by striking '', challenging State student performance'' and all that follows through the semicolon and inserting ''or challenging State student performance standards;''.

(3) Section 3151(b)(5)(H) of such Act (20 U.S.C. 6871(b)(5)(H)) is amended by striking ''the voluntary national content standards, the voluntary national student performance standards and''.

(4) Section 3206(b)(12) of such Act (20 U.S.C. 6896(b)(12) is amended—

(A) in subparagraph (H), by inserting ''and'' after the semicolon;

(B) by striking subparagraph (I); and

(C) by redesignating subparagraph (J) as subparagraph (I).

(5) Section 7136 of such Act (20 U.S.C. 7456) is amended by striking ''and which are consistent with voluntary national content standards and challenging State content standards''.

(6) Section 10963(b)(5)(B) of such Act (20 U.S.C. 8283(b)(5)(B)) is amended by striking ''or to bring teachers up to national voluntary standards''.

(7) Section 14701(b)(1)(B)(v) of such Act (20 U.S.C. 8941(b)(1)(B)(v)) is amended by striking ''the National Education Goals Panel,'' and all that follows through ''assessments)'' and inserting ''and the National Education Goals Panel''.

(c) GENERAL EDUCATION PROVISIONS ACT.—Section 428 of the General Education Provisions Act (20 U.S.C. 1228b), as amended by section 237 of the Improving America's Schools Act of 1994 (Public Law 103–382) is amended by striking ''the National Education Standards and Improvement Council,''.

(d) EDUCATION AMENDMENTS OF 1978.—

(1) Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001), as amended by section 381 of the Improving America's Schools Act of 1994 (Public Law 103–382) is amended—

(A) by striking subsection (b);

(B) by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(C) in subsection (b) (as redesignated by subparagraph (B))—

(i) in paragraph (1), by striking ''and the findings of the studies and surveys described in subsection (b)''; and

(ii) in paragraph (2), by striking ''subsection (f)'' and inserting ''subsection (e)'';

(D) in subsection (c) (as redesignated by subparagraph (B)), by striking ''subsection (c)'' and inserting ''subsection (b)'';

(E) in subsection (d) (as redesignated by subparagraph (B)), by striking ''subsection (c) and (d)'' and inserting ''subsections (b) and (c)'';

(F) in paragraph (1) of subsection (e) (as redesignated by subparagraph (B)), by striking ''subsections (c) and (d)'' each place it appears and inserting ''subsections (b) and (c)''; and

(G) in subsection (f) (as redesignated by subparagraph (B)), by striking ''subsections (e) and (f)'' and inserting ''subsections (d) and (e)''.

(2) Section 1122(d)(1) of such Act (25 U.S.C. 2002(d)(1)) is amended—

(A) by striking ''section 1121(c)'' and inserting ''section 1121(b)''; and

(B) by striking ''section 1121(e)'' and inserting ''section 1121(d)''.

(3) Section 1130 of such Act (25 U.S.C. 2010) is amended—

(A) in subparagraph (B) of subsection (a)(4), by striking ''section 1121(h)'' and inserting ''section 1121(g)''; and

(B) in the matter preceding subparagraph (A) of subsection (f)(1), by striking ''section 1121(k)'' and inserting ''section 1121(j)''.

(4) Section 1137(a)(3) of such Act (25 U.S.C. 2017(a)(3)) is amended by striking ''sections 1121(g)'' and inserting ''sections 1121(f)''.

SUMMARY OF S. 323

The bill:

(1) Eliminates all of Part B of Title II of the Goals 2000: Educate America Act, which includes the authority for the establishment of the National Education Standards and Improvement Council (NESIC).

(2) Eliminates the National Education Goals Panel's federal authority to approve or endorse voluntary national standards.

(3) Prohibits the federal government from funding the development of model or national content, student performance, or opportunity-to-learn standards.

(4) Contains numerous conforming amendments to the Goals 2000: Educate America Act, the Elementary and Secondary Education Act of 1965, and the Education Amendments of 1978.●

By Mr. WARNER (for himself, Mr. COCHRAN, Mr. THOMAS, and Mr. SIMPSON):

S. 324. A bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes; to the Committee on Labor and Human Resources.

THE VOLUNTEER FIREFIGHTER AND RESCUE SQUAD WORKER ACT

● Mr. WARNER. Mr. President, I rise today to introduce legislation to amend the Fair Labor Standards Act of 1938. This is a companion measure to legislation, H.R. 94, introduced in the House of Representatives by Virginia Congressman HERB BATEMAN.

My bill may be referred to as the Volunteer Firefighter and Rescue Squad Worker Act of 1994.

The purpose of the Volunteer Firefighter and Rescue Squad Worker Act is to amend the Fair Labor Standards Act of 1938 to exclude from the definition of ''employee'' firefighters and rescue squad workers who perform volunteer services. In addition, it will prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and will allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services.

The need for this legislation stems from a 1993 U.S. Department of Labor ruling which found that a career firefighter cannot serve as a volunteer firefighter within the same county as they are employed. This ruling is commonly referred to as the Montgomery County, Maryland decision.

The Department of Labor's interpretation of the Fair Labor Standards Act in the Montgomery decision has promoted a great deal of concern from volunteer fire and rescue groups across the Nation, including Virginia. The decision was made to prevent counties—employers—from coercing career firefighters to work overtime without overtime compensation.

While protection from coercion is a worthy and necessary element of the Fair Labor Standards Act, the administrative decision offers a presumption of guilt on the part of law-abiding counties. In addition, it precludes men and women who wish to volunteer their services within their own community from doing so, if they reside in the same community as they are employed.

Finally, it represents yet another unfunded Federal mandate and an intrusion on the rights of citizens to decide for themselves what services local government should provide.

Historically, volunteer fire and rescue services have played an important role in our communities. These men and women are private citizens who selflessly answer the call to duty, day and night, to protect the lives and property of others.

In many parts of Virginia today, indeed in many parts of the Nation still, the difference between life and death in the ''golden hour'' is the initial emergency medical services provided by volunteer rescue workers. Many localities are a good 45 minutes to an hour away from the nearest hospital and the aid administered by volunteers is critical to the survival of victims.

The volunteer fire departments and rescue squads provide fire and emergency medical services [EMS] for 82 percent of all fire and EMS services in Virginia. Of the 602 fire departments in the Commonwealth of Virginia, 67 are combined career and volunteer departments and 535 are strictly volunteer departments. These statistics only begin to tell about the important role that the 20,000 volunteer firefighters in Virginia play in our daily lives.

Mr. President, the intent of my legislation is quite simply to help to preserve the spirit of volunteerism in our communities and to assist our volunteer fire and rescue workers in their mission to provide vital lifesaving and property protection services.

Many of our valiant career firefighters come from the ranks of the volunteers and received their initial training from those departments. In turn, many career firefighters have volunteered their service and expertise to the volunteer departments. I believe that my legislation will help to preserve this unique relationship.

For the benefit of my colleagues, I would briefly like to outline what my legislation would do.

Section one simply cites the legislation as the Volunteer Firefighter and Rescue Squad Worker Act.

Section two would exempt career firefighters and rescue squad workers who volunteer their off-duty services at locations—fire companies—where they are not employed during the course of normal duty hours from the Fair Labor Standards overtime provisions.

Section three would allow career firefighters and rescue squad workers to waive their claim to overtime compensation.

Section four would prohibit employers from directly or indirectly requiring firefighters or rescue squad workers to volunteer their services during any period in which they would otherwise be entitled to receive overtime compensation.

Mr. President, I urge my fellow Senators, particularly members of the Congressional Fire Caucus, to join me in support of this important measure.●

By Mr. THOMAS:

S. 325. A bill to make certain technical corrections in laws relating to native Americans, and for other purposes; to the Committee on Indian Affairs.

INDIAN STATUTE AMENDMENTS

Mr. THOMAS. Mr. President, I rise today as a member of the Committee on Indian Affairs—and a former ranking member of the House Subcommittee on Native American Affairs—to introduce legislation to make certain technical amendments to laws relating to native Americans.

Congress typically considers legislation like this once or twice a year. It affords us the opportunity to address a series of technical corrections or minor amendments to Indian bills in one fell swoop, without having to introduce several separate bills.

Sections 1 and 2 deal with two bills that were passed last year which extended Federal recognition to three Indian groups in Michigan: the Pokagon Band of Potawatomi, and the Little Traverse Bay Bands of Odawa Indians, and the Little River Band of Ottawa Indians. The bills, passed in September, failed to include a usual provision requiring the newly recognized groups to submit membership rolls to the Bureau of Indian Affairs. These rolls are important because they allow the BIA to know exactly who is a member of the band and thus entitled to Federal benefits available to members of recognized tribes.

To correct this oversight, in October—as part of another technical corrections bill—we amended both the September bills to include the membership roll requirements. Unfortunately, in the crush of legislation of the final days of the session, the two amendments were transposed. The Pokagon bill, which deals with only one band, was amended in the plural; concomitantly, the Odawa/Ottawa bill, which deals with several bands, had an amendment worded in the singular. This bill would simply retranspose the October amendments.

Section 3 of the bill repeals the Trading With the Indians Act. Enacted in the early 1800's, the act prohibits Federal employees from trading with Indians. At the time, the act was seen as a way to protect the unsophisticated tribes from unscrupulous War Department employees who might have used their positions over the tribes to enter into business deals with them on terms less than advantageous to the Indians.

Today, though, the act has become both an anachronism and a nuisance. Not only are the tribes no longer in need of the paternalistic protections the act affords; but it makes criminal such simple everyday acts as the sale of a used car by the wife of a BIA employee to an Indian neighbor. Both the Department of Justice and the Department of the Interior agree that the act is unnecessary, and should be repealed. My good friends Senators MCCAIN and KYL worked diligently on this issue in the last Congress, but time constraints prevented its passage by both Houses before adjournment sine die.

Mr. President, I look forward to working closely with my chairman, Senator MCCAIN, in securing swift passage of this legislation.

By Mr. HATFIELD (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. BUMPERS, and Mr. HARKIN):

S. 326. A bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the U.N. Registrar of Conventional Arms; to the Committee on Foreign Relations.

CODE OF CONDUCT ON ARMS TRANSFERS

● Mr. HATFIELD. Mr. President, a little more than a year ago I was approached by citizens who share my concern about conventional weapons transfers. They told me of an international effort to curb the arms trade by limiting transfers only to nations which adhere to principles of human rights, democracy, and peace. This initiative, called the Code of Conduct, appeared to be a common-sense approach to decisions regarding weapons transfers and I agreed to introduce it as legislation in the Senate.

Last year on this day Congresswoman CYNTHIA MCKINNEY and I held a press conference to announce our intent to push the Code of Conduct through Congress. Both of us have spent a great deal of time over these past months promoting the bill and contributing to the public's education about the glut of conventional weapons. It is with great pleasure that I reintroduce this bill today and that I am again joined by Representative MCKINNEY, who is introducing its companion in the House of Representatives.

The legislation alters U.S. arms transfer policy by significantly increasing the conditions upon which a nation may receive U.S.-built weapons. By stating as a basic requirement that U.S. arms should not go to nations which have poor human rights records, are undemocratic or are engaged in illegal acts of war, our policy allows arms transfers only to nations which are unlikely to emerge as security threats to their neighbors or to the United States themselves.

I have spoken to groups around the country about this bill and the response has been very strong. Americans agree that no arms should go to dictators. Many citizens are beginning to question why millions of their tax dollars are going to subsidize weapons manufacturers who seek to export fighter jets, tanks, and other armaments. And many individuals have shared with me their concern that we will have repeats of Panama, Somalia, Iraq, and Haiti, where United States

troops faced weapons either paid for or provided by our own Government.

Despite the fact that the safety of our troops has been threatened by arms exports, the administration seems intent upon broadening the justification for arms sales approval to also include considerations of U.S. economic interests. In other words, the administration wants to allow jobs to dictate whether or not lethal weaponry should go to nations, many of which have poor human rights records and are not democratic.

The escalating global arsenal must be reduced and nonproliferation must start with the United States. I believe that the only hope for fundamental change in policy is Congress and I will ask the Senate to vote on the Code of Conduct this year because I believe it is time for Congress to assume a greater responsibility for our arms export policies. I hope that my colleagues will take time to review this proposal, join me as a cosponsor and support this bill when it comes to the floor.●

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. EXON, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. JOHNSTON, and Mr. KERREY):

S. 327. A bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home; to the Committee on Finance.

HOME OFFICE DEDUCTION ACT

Mr. HATCH. Mr. President, today I am proud to introduce the Home Office Deduction Act of 1995. I am joined today by my friends and colleagues, Senators BAUCUS, EXON, LIEBERMAN, GRASSLEY, JOHNSTON, and Senator KERREY of Nebraska. This bill will clarify the definition of what a ''principal place of business'' is for purposes of section 280A of the Internal Revenue Code, which allows a deduction for an office in the home. An identical bill has been introduced by Representative BILL ARCHER in the House as part of H.R. 9.

Last year, we introduced similar legislation that had 15 bipartisan cosponsors in the Senate. Also, the companion bill in the House, introduced last year by Representative Peter Hoagland, had the bipartisan support of 88 cosponsors.

This bill is designed to reverse the 1993 Supreme Court decision in Commissioner versus Soliman. When this decision was handed down, it effectively closed the door to legitimate home-office deductions for hundreds of thousands of taxpayers. Moreover, the decision unfairly penalizes many small businesses simply because they operate from a home rather than from a store front, office building, or industrial park.

Mr. President, until the Soliman decision, small business owners and professionals who dedicate a space in their homes to use for business activities were generally allowed to deduct the expenses of the home office if they met the following conditions: First, the space in the home was used solely and exclusively on a regular basis as an office; and second, the deduction claimed was not greater than the income earned by the business. Through the Soliman case, the Supreme Court has narrowed significantly the availability of this deduction by requiring that the home office be the principal business location of the taxpayer. This requirement that the home office be the principal business location has proven to be impossible to meet for many taxpayers with legitimate home-office expenses.

For example, under the Soliman decision, a self-employed plumber who generates business income by performing services in the homes of his customers would be denied a deduction for a home office. This is because, under the rules, his home office is not considered his principal place of business because the business income is generated in the homes of the customers and not in his home office. This is the case even though the home office is where he receives telephone messages, keeps his business records, plans his advertising, stores his tools and supplies, and fills out Federal tax forms. In fact, having a full-time employee in the office who keeps the books and sets up appointments would still not result in a home-office deduction for the plumber. This is preposterous, Mr. President, and we need to correct it. My bill would rectify this result by allowing the home office to qualify as the principal place of business if the essential administrative or management activities of the business are performed there.

The truly ironic effect of the Supreme Court's decision is that a taxpayer who rents office space outside the home is allowed a full deduction, but one who tries to economize by working at home is penalized. This makes no sense to me.

The Home Office Deduction Act of 1995 is designed to restore the deduction for home-office expenses to pre-Soliman law. Rather than requiring taxpayers to meet the new criteria set out by the Court, the bill allows a home office to meet the definition of a ''principal place of business'' if it is the location where the essential administrative or management activities are conducted on a regular and systematic basis by the taxpayer. To avoid possible abuses, the bill requires that the taxpayer have no other location for the performance of these essential administrative or management activities.

Mr. President, today's job market is rapidly changing. New technologies have been developed and continually improved that allow instant communication around the once expansive globe. There is even talk of virtual offices, which are equipped only with a telephone and a hookup for a portable computer. These mobile communications have revolutionized the definition of the traditional office. No longer is there a need to establish a business downtown. Employees are telecommunicating by facsimile, modem, and telephone. Today, both a husband and wife could work without leaving their home and the attention of their children. In this new age, redefining the deduction for home-office expenses is vital. Our tax policy should not discriminate against home businesses simply because a taxpayer makes the choice, often based on economic or family considerations, to operate out of the home.

In most cases, startup businesses are very short on cash. Yet, for many, ultimate success depends on the ability to hold out for just a few more months. In these situations, even a relatively small tax deduction for the expenses of the home office can make a critical difference. It is important to note that some of America's fastest growing and most dynamic companies originated in the spare bedroom or the garage of the founder. Our tax policies should support those who dare to take risks. Many of tomorrow's jobs will come from entrepreneurs who are struggling to survive in a home-based business.

Mr. President, the home-office deduction is targeted at these small business men and women, entrepreneurs, and independent contractors who have no other place besides the home to perform the essential administrative or management activities of the business. The Soliman decision drastically reduced the effectiveness and fairness of this deduction and must be reversed.

This legislation can also have an important effect on rural areas, such as in my home State of Utah. Many small business owners and professionals in rural areas must spend a great deal of time on the road, meeting clients, customers, or patients. It is likely that many of my rural constituents will be unable to meet the requirements for the home-office deduction under the Soliman decision. Mr. President, we must help these taxpayers, not hurt them, in their efforts to contribute to the economy and support their families.

The Home Office Deduction Act of 1995 not only has strong bipartisan support in the Congress, but also has the support of the following organizations: The American Institute of Certified Public Accountants, the National Federation of Independent Businesses, the Family Research Council, the Small Business Legislative Council, the National Association of the Self-Employed, the National Association of the Remodeling Industry, the National Association of Small Business Investment Cos., the Direct Selling Association, the Promotional Products Association International, the Illinois Women's Economic Development Summit, the Alliance of Independent Store Owners and Professionals, the American Veterinary Medical Association, the Bureau of Wholesale Sales Representatives, the National Association of Home Builders, the International Home

Furnishings Representatives Association, the National Association of Women Business Owners, Communicating for Agriculture, and the National Society of Public Accountants.

I urge my colleagues in the Senate to join us as a cosponsor of this important legislation.

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. 327

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 ''Home Office Deduction Act of 1995''.

SEC. 2. CLARIFICATION OF DEFINITION OF PRINCIPAL PLACE OF BUSINESS.

Subsection (f) of section 280A of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

''(A) the office is the location where the taxpayer's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the taxpayer, and

''(B) the office is necessary because the taxpayer has no other location for the performance of the essential administrative or management activities of the business.''

SEC. 3. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

Paragraph (2) of section 280A(c) of the Internal Revenue Code of 1986 is amended by striking ''inventory'' and inserting ''inventory or product samples''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1991.

● Mr. LIERBERMAN, Mr. President, I am delighted to join in the introduction of this important bill to restore the home-office deduction. As an original cosponsor of this bill in the last Congress, I hope that we will succeed in passing this bill in the 104th Congress.

After being turned down by two tax courts, the IRS succeeded in narrowing the definition of the home-office deduction by taking their case to the Supreme Court. In essence, the early 1993 decision narrowed the home-office deduction test to businesses where income is generated in the home and to businesses where customers come to the home.

These new tests are flawed. They disallow the deduction for a whole host of legitimate home businesses. Take plumbers or house painters. Both plumbers and painters may run virtually all aspects of their businesses from the home but in the end they must travel to the customer. A plumber simply cannot insist that a bathtub be brought to the office. There is a clear and compelling reason for a house painter to make house calls.

Mr. President, this issue is of particular importance to my home State of Connecticut where laid-off workers are using severance packages to start businesses out of their homes, where underemployed workers are making ends meet through part-time home businesses. There are people I think of as forced entrepreneurs. They are people who have struck out on their own in such numbers that they appear to be showing up in labor statistics in my region of the country. To quote an October 1993 report by the New England Economic Project:

Households have been reporting more buoyant employment conditions than establishments have. The number of New Englanders now indicating they are working is 2 percent higher than a year earlier. This upturn appears to reflect a rise in self-employment and the emergence of small young businesses that are not yet tabulated in the establishment survey. In other words, people may be adjusting to shrinking job opportunities at the region's traditional employers by becoming entrepreneurs.

Mr. President, these rules take us in the wrong direction. They ignore the trend toward home-based businesses by those who have lost traditional office jobs, they ignore those who are working second jobs to make ends meet, and they ignore those parents who choose to stay at home with the children while still earning a much-needed income.

In the past, there have undoubtedly been abuses of this deduction. I believe there has been cause to tighten these rules. But the solution to these abuses has clearly not been found. To exclude whole sectors of legitimate home-office businesses is hardly the answer to the problem of abuse of this deduction. I should also point out that in this economy, the last thing we should be doing is hurting legitimate businesses.

I encourage my colleagues to join me as a sponsor of this legislation.●

By Mr. FEINGOLD:

S. 330. A bill to amend the Agricultural Act of 1949 to require producers of an agricultural commodity for which an acreage limitation program is in effect to pay certain costs as a conditions of agricultural loans, purchases, and payment, and for other purposes.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 329. A bill to direct the Secretary of the Interior to submit a plan to Congress to achieve full and fair payment for Bureau of Reclamation water used for agricultural purposes, and for other purposes; to the Committee on Energy and Natural Resources.

WATER SUBSIDY LEGISLATION

● Mr. FEINGOLD. Mr. President, yesterday all Senate offices received a copy of a new report entitled ''Green Scissors,'' written by Friends of the Earth and the National Taxpayers Union and supported by 23 other environmental and consumer groups. The premise of the report is that there are a number of subsidies and projects, totalling $33 billion in all, that could be cut to both reduce the deficit and benefit the environment. This report coalesces what I and many others in the Senate have long known, we must be diligent in eliminating practices that can no longer be justified in light of our enormous annual deficit and national debt.

I am pleased today to reintroduce two related pieces of legislation that I introduced in the 103d Congress aimed at reducing water subsidies that cost the Federal taxpayers millions of dollars each year. This legislation was profiled in the ''Green Scissors'' report, and the high cost of these subsidies was highlighted in yesterday's Washington Post, New York Times, and USA Today. These are part of a series of subsidy reducing measures that I will propose in the 104th Congress. The first bill, amends the Agricultural Act of 1949 to require agricultural producers that grow a crop for which an acreage limitation program is in effect to pay the full cost of water provided by the Federal Government. The second bill requires the Secretary of the Interior to submit a plan to Congress to continue these savings by highlighting ways to eliminate water subsidies for agricultural producers growing crops that do not fall under the commodity program.

Mr. President, the first bill eliminates multiple subsidies codified in our Federal law which provides dual payments to agricultural producers—one as a direct payment to limit production of certain surplus crops and the other as a discount, undercharging for federally subsidized water to produce these crops. Its premise is simple. If an agricultural producer is receiving Federal payments under a Federal acreage limitation program—payments designed to discourage production of a particular crop—that producer is not eligible to receive below-cost water from the Federal Government to produce the crop which the Federal Government is paying the producer not to grow. In other words, the Federal taxpayers should not be asked on the one hand to provide payments to discourage production of a crop while at the same time paying for the delivery of below-cost water for that same crop.

It has been estimated that the cost of providing below-cost water to agriculture producers in the acreage limitation program costs the Federal Government between $66 and $830 million each year. The Department of Agriculture pays farmers approximately $500 million not to grow these same crops. Mr. President, these double payments cannot continue. Elimination of western water subsidies, and a wide range of reclamation subsidies, should be pursued as legitimate deficit reduction opportunities. It is clear that the conflicting policies of the Federal Government in this area are examples of Federal waste and abuse.

The second bill, Mr. President, creates an institutional obligation to review agricultural water subsidy practices, and provides Congress with important information necessary to proceeding along a path of reducing burdens on the Federal budget. I am proud to be joined by my colleague from Wisconsin, Senator KOHL, introducing this measure. The Bureau of Reclamation will be required to develop a plan for charging accurate water prices no later than September 1995 and to report that plan to Congress. At that time I will ask my colleagues to think aggressively about new legislative changes that may be needed to bring market prices to irrigation water provided by the Federal Government.

In conclusion, Mr. President, I am pleased that these bills will be among the first of major efforts by this Senate to seek opportunities to reduce the deficit by reforming subsidy practices. I will continue to remain committed to that goal. I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 329

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

SECTION 1. WATER RECLAMATION PROJECTS.

(a) IN GENERAL.—The Secretary of the Interior shall develop a plan for charging the recipient of water from a water reclamation project conducted by the Bureau of Reclamation the full and fair value of water received that is used for agricultural purposes.

(b) REPORT.—Not later than September 1, 1995, the Secretary of the Interior shall transmit the plan developed under subsection (a) to Congress.

S. 330

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 ''Agricultural Irrigation and Deficit Reduction Act of 1995''.

SEC. 2. PAYMENT OF CERTAIN COSTS UNDER ACREAGE LIMITATION PROGRAMS.

Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding at the end the following new section:

''SEC. 116. PAYMENT OF CERTAIN COSTS UNDER ACREAGE LIMITATION PROGRAMS.

''(a) IN GENERAL.—If an acreage limitation program is announced for a crop of a commodity under this title, as a condition of eligibility for loans, purchases, and payments for the crop under this title, the producers on a farm shall pay to the Secretary of the Interior an amount that is equal to the full cost incurred by the Federal Government of the delivery to the farm of water that is used in the production of the crop, as determined by the Secretary of the Interior.

''(b) APPLICATION.—

''(1) IN GENERAL.—Subsection (a) shall not apply to the delivery of water pursuant to a contract that is entered into before January 1, 1996, under any provision of Federal reclamation law.

''(2) RENEWAL OR AMENDMENT.—If a contract described in paragraph (1) is renewed or amended on or after January 1, 1996, subsection (a) shall apply to the delivery of water beginning on the date of renewal or amendment.''.●

By Mr. KOHL:

S. 331. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

FAMILY FARM RETIREMENT EQUITY ACT

● Mr. KOHL. Mr. President, I rise today to introduce the Family Farm Retirement Equity Act of 1995, a bill to help improve the security of our Nation's retired farmers.

As we begin the 104th Congress, we can anticipate legislative action dealing with the tax treatment of retirement savings. President Clinton has laid out his proposals for changes in tax rules on savings, and the Republicans have made their proposed changes to the individual retirement account rules, as well; 1995 will also be the year that Congress reauthorizes the farm bill. This heightened attention to both retirement taxation issues and farm income issues affords this Congress the perfect opportunity to address an issue of great importance to rural America: farmer retirement.

Farming is a highly capital-intensive business. To the extent that the average farmer reaps any profits from his or her farming operation, much of that income is directly reinvested into the farm. Rarely are there opportunities for farmers to put money aside in individual retirement accounts. Instead, farmers tend to rely on the sale of their accumulated capital assets, such as real estate, livestock, and machinery, in order to provide the income to sustain them during retirement. All too often, farmers are finding that the lump-sum payments of capital gains taxes levied on those assets leave little for retirement. It is with that problem in mind that I am introducing the Family Farm Retirement Equity Act.

This legislation would provide retiring farmers the opportunity to rollover the proceeds from the sale of their farms into a tax-deferred retirement account. Instead of paying a large lump-sum capital gains tax at the point of sale, the income from the sale of a farm would be taxed only as it is withdrawn from the retirement account. Such a change in method of taxation would help prevent the financial distress that many farmers now face upon retirement.

Another concern that I have about rural America is the diminishing interest of our younger rural citizens in continuing in farming. Because this legislation will facilitate the transition of our older farmers into a successful retirement, the Family Farm Retirement Equity Act will also pave the way for a more graceful transition of our younger farmers toward farm ownership. While low prices and low profits in farming will continue to take their toll on our younger farmers, I believe that this will be one tool we can use to make farming more viable for the next generation.

This proposal is supported by farmers throughout the country, and I am proud to introduce this legislation.

I ask unanimous consent that the full text of the bill be included in the RECORD.

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

S. 331

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

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Family Farm Retirement Equity Act of 1995''.

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

''SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

''(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

''(b) ASSET ROLLOVER ACCOUNT.—

''(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

''(c) CONTRIBUTION RULES.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

''(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

''(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

''(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

''(3) ANNUAL CONTRIBUTION LIMITATIONS.—

''(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

''(i) the qualified net farm gain for the taxable year, or

''(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

''(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

''(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

''(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

''(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

''(A) the net capital gain of the taxpayer for the taxable year, or

''(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

''(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

''(3) QUALIFIED FARMER.—

''(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

''(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

''(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

''(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

''(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

''(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

''(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

''(1) IN GENERAL.—Any individual who—

''(A) makes a contribution to any asset rollover account for any taxable year, or

''(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

''(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

''(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).''.

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) of the Internal Revenue Code of 1986 (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.''.

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

''(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) of such Code is amended by striking ''or'' and inserting ''an asset rollover account (within the meaning of section 1034A), or''.

(B) The heading for section 4973 of such Code is amended by inserting ''**ASSET ROLLOVER ACCOUNTS**,'' after ''**CONTRACTS**''.

(C) The table of sections for chapter 43 of such Code is amended by inserting ''asset rollover accounts,'' after ''contracts'' in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) of the Internal Revenue Code of 1986 (defining individual retirement account) is amended by inserting ''or a qualified contribution under section 1034A,'' before ''no contribution''.

(2) Subparagraph (A) of section 408(d)(5) of such Code is amended by inserting ''or qualified contributions under section 1034A'' after ''rollover contributions''.

(3)(A) Subparagraph (A) of section 6693(b)(1) of such Code is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(B) Section 6693(b)(2) of such Code is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(4) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1034 the following new item:

''Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.●

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. EXON, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 14, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed cancellations of budget items.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 73

At the request of Mr. INOUYE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 73, a bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges.

S. 228

At the request of Mr. BRYAN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 228, a bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and congressional employees for retirement purposes.

S. 230

At the request of Mr. DOLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 230, a bill to prohibit U.S. assistance to countries that prohibit or restrict the transport or delivery of U.S. humanitarian assistance.

S. 233

At the request of Mr. MCCAIN, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 240

At the request of Mr. DOMENICI, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 245

At the request of Mr. COHEN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 245, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 270

At the request of Mr. SMITH, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 270, a bill to provide special procedures for the removal of alien terrorists.

S. 287

At the request of Mrs. HUTCHISON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 296

At the request of Mr. KENNEDY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 296, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.