a distribution scheme for revenues from reclamation project lands; to the Committee on Energy and Natural Resources.

By Mr. BENNETT (for himself, Mr. CAMPBELL, Mr. BROWN, Mr. JEFFORDS, Mr. STEVENS, and Mr. HATCH):

S. 621. A bill to amend the National Trails System Act to designate the Great Western Trail for potential addition to the National Trails System, and for other purposes.

By Mr. LEVIN (for himself, and Mr. ABRAHAM):

S. 622. A bill to amend the Clean Air Act to provide that a State containing an ozone nonattainment area that does not significantly contribute to ozone nonattainment in its own area or any other area shall be treated as satisfying certain requirements if the State makes certain submissions, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SPECTER (for himself and Mr. HATCH):

S. 623. A bill to reform habeas corpus procedures, and for other purposes; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 624. A bill to establish a Science and Mathematics Early Start Grant program, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 92. A resolution amending Rule XXV of the Standing Rules; considered and agreed to.

S. Res. 93. A resolution making majority party appointments to the Energy and Natural Resources Committee, the Veterans' Affairs Committee, and the Committee on Indian Affairs; considered and agreed to.

S. Res. 94. A resolution making a Majority party appointment; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 611. A bill to authorize extension of time limitation for a FERC-issued hydroelectric license; to the Committee on Energy and Natural Resources.

FERC-ISSUED LICENSE AUTHORIZATION EXTENSION ACT

• Mr. BRADLEY. Mr. President, I introduce legislation which would allow the Federal Energy Regulatory Commission to extend a license already granted to the Mount Hope pumped storage project. It is my understanding that the FERC has no objection to this extension and that the agency itself would grant the extension, if it were not statutorily prohibited from doing so.

I am very pleased to have Senator LAUTENBERG as a cosponsor on this legislation.

The Mt. Hope project is an advanced pumped-storage hydroelectric plant. It will be constructed on an existing industrial site that has been active for almost 300 years. It will be largely underground, once it is established, and should have a very limited environmental impact.

This project will cost $1.8 billion to construct and will be financed entirely by the private sector. It is estimated that this single project will create up to 1,300 jobs during construction and provide about $20 million annually in property taxes.

Mr. President, the project's existing license will expire in August, 1996. When the license was originally requested and granted in the early 1990's, the sponsors presumed that the financing would be complete and construction underway by 1996, as required. Unfortunately, the extended economic recession intervened. Because of the general economic climate and the difficulty of financing any project of this magnitude, the start-up date has slipped.

Normally, I am very hesitant to intervene in any way in a regulatory process. However, since I understand that the FERC has no objections and will support this extension, I am willing to move ahead. I also understand that the Congressman representing this district, Rodney Frelinghuysen, is preparing companion legislation.

When the FERC granted the original license, they required public hearings and an extensive environmental analysis. While I understand that there is substantial local support for this project, this legislation will now be the subject of additional hearings. Before agreeing to move the legislation in the Senate, I will weigh carefully any new comments or concerns about the project and I will be contacting local community members to gauge the level of their enthusiasm and support.

Mr. President, I ask unanimous consent to have the text of the bill printed following these remarks.

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

S. 611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitation of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 9401 is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until August 3, 1999, the time required for the licensee to commence the construction of such project. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under section 13) of the period required for commencement of construction of such project.•

By Mr. ROCKEFELLER (for himself, Mr. DASCHLE, Mr. GRAHAM, and Mr. MURKOWSKI):

S. 612. A bill to amend title 38, United States Code, to provide for a hospice care pilot program for the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

VETERANS' HOSPICE CARE SERVICES ACT

• Mr. ROCKEFELLER. Mr. President, in the spirit of strengthening our commitment to provide a comprehensive package of health care benefits to veterans eligible for care in the VA health care system, I am today introducing a bill that would require VA to conduct a hospice care pilot program to determine how best to provide hospice care services to terminally ill veterans. I am proud that Senators DASCHLE, GRAHAM, and MURKOWSKI have joined with me as original cosponsors. As the number of veterans who are elderly or have terminal illnesses continues to grow, the need and demand for VA hospice care is likely to increase. We must stay ahead of the surge and explore the various ways to provide such care, so our veterans and their families will have the best choices available to them.

Our legislation is derived from S. 1141, which I sponsored and which was incorporated into the committee bill, S. 1030, of the 103d Congress. Though S. 1030 passed the Senate, it did not pass the House. The bill also builds upon S. 1358 of the 102d Congress which Senator GRAHAM introduced on June 24, 1991, and the Senate passed on October 16, 1991.

Although VA has expanded and improved hospice care services over the past 4 years, it continues to fall short of the goals we envisioned. Thus we feel compelled to introduce the Veterans' Hospice Care Services Act of 1995.

SUMMARY OF PROVISIONS

Mr. President, this legislation would expand comprehensive VA hospice care programs and promote VA research on hospice care. The bill would amend chapter 17 of title 38 to establish a new subchapter VII, the provisions of which would:

First, require VA, during the period beginning on October 1, 1995, and ending on December 31, 2000, to conduct a pilot program in order to assess the desirability of furnishing hospice care services to terminally ill veterans, and determine the most effective and efficient means of furnishing such services.

Second, require VA to furnish hospice care services under the pilot program to any veteran who has a life expectancy of 1 year or less, as certified by a VA physician and who is entitled to VA hospital care, eligible for and receiving VA hospital or nursing home care, eligible for and receiving care in a community nursing home under a VA contract, or eligible for and receiving care in a State veterans home for which VA is making per diem payments to offset the costs of that care.

Third, specify that the hospice care services that VA must provide to veterans under the pilot program are: The services to which Medicare beneficiaries are entitled under the Medicare's hospice care benefit, and personal care services, including care or services relating to activities of daily living, such as dressing, personal hygiene, feeding, and housekeeping.

Fourth, require the Secretary to establish hospice care demonstration projects that would provide these services at not fewer than 15 but mote than 30 VA medical centers [VAMC's] by one of these means: A hospice operated by a VAMC, a non VA hospice under contract with a VAMC and pursuant to which the VA facility furnishes any necessary inpatient services, or a non-VA facility furnishes any necessary inpatient services.

Fifth, require that each of the three means for furnishing hospice care services be used at not fewer than five VAMC's.

Sixth, require the Secretary to ensure, to the maximum extent feasible, that VAMC's selected to conduct demonstration projects under the pilot program include facilities that: Are located in urban areas and rural areas, encompass the full range of affiliations between VAMC's and medical schools, operate and maintain various numbers of beds, and meet any additional criteria or standards that the Secretary may deem relevant or necessary.

Seventh, provide that the amount paid by VA or a non-VA hospice under a hospice care services contract generally may not exceed the amount that would be paid to that hospice under the Medicare hospice benefit, and authorize the Secretary to pay an amount in excess of the Medicare reimbursement rate, if the Secretary determines, on a case-by-case basis, that the Medicare rate would not adequate compensate the hospice for the costs associated with furnishing necessary care to a terminally ill veteran.

Eighth, require the Secretary to designate not fewer than 10 VAMC's that would function as a control group and furnish a less comprehensive range of hospice care services to terminally ill veterans that the range that VAMC's participating in the pilot program must provide, by VA personal providing one or more hospice care services to veterans at a VAMC, or VA personal monitoring the furnishing by non-VA provider of one or more hospice care services to veterans.

Ninth, require the Secretary to ensure, to the maximum extent practicable, that terminally ill veterans receive information regarding their eligibility, if any, for Medicare's hospice care benefit.

Tenth, require the Secretary, not later than September 30, 1996, and on an annual basis thereafter, until October 1, 2001, to submit periodic written reports to the House and Senate Committee on Veterans' Affairs about the pilot program.

Eleventh, require the Under Secretary for Health, not later than August 1, 1999, to submit to the House and Senate Committees on Veterans' Affairs a detailed final report on the pilot program, including an assessment of the desirability of furnishing hospice care services to terminally ill veterans, an assessment of the optimal means of furnishing hospice care services to terminally ill veterans, and his recommendations, if any, for additional legislation regarding such care.

Twelth, clarify that the pilot program would not preclude VA from furnishing hospice care services at VAMC's not participating in the pilot program or the control group.

BACKGROUND

Clearly, terminally ill veterans need an alternative to customary, curative care, and the Department of Veterans Affairs has made steady progress in meeting the demand.

However, VA headquarters officials have given only general guidance to VAMC's regarding the types of hospice care services they must provide and the manner in which they must provide them. Not surprisingly, significant variations exist in the manner in which VAMC's provide these services. Only 39 of 171 VAMC's operate their own hospice units. These units are freestanding buildings or separate units where a homelike atmosphere is created. Other VAMC's provide hospice in units that are converted patient rooms where cure-oriented care is administered adjacent to the hospice rooms. Still other VAMC's only provide some hospice services such as caregiver counseling and pain management. Many offer only an assessment of a terminally ill veterans' needs and referral to a non-VA hospice.

Neither uniformity nor marked variation in the provision of VA hospice care may be the answer. Each local area may need to tailor its programs and services to the unique needs of the veterans they serve, as well as the delivery modalities in their areas.

Yet I continue to believe that there are important questions that need to be asked and answered about the ways to provide such care. For example, some claim that we can best meet terminally ill veterans' needs by integrating hospice concepts into mainstream care for terminally ill persons. Others believe that because most VAMC's are affiliated with medical schools that emphasize technology-intensive, curative interventions, veterans would be better served if VA contracted with community hospice providers. There may not be only one correct approach, and that is fine. But I do know that we must address these difficult questions if we truly care about meeting terminally ill veterans' needs.

The pilot program this legislation envisions could be of great help in assessing these concerns. The bill calls for VA to establish hospice demonstration projects at 15 to 30 VAMC's that will provide a comprehensive range of hospice care services. Ten other VAMC's will constitute a control group and offer a less comprehensive range of hospice services. In essence, an experiment will be set up, whereby consistent data can be generated and valuable information extrapolated. This study will help health care providers identify veterans most likely to benefit from that program and tailor the program's services to meet their needs.

This year's bill, like S. 1030 of the 103d Congress, contains a provision that explicitly states that VA can continue to provide hospice care services at any VAMC, which would guarantee that no veteran will lose access to hospice care as a result of the pilot program. We certainly do not want VA to eliminate its existing hospice programs. Rather, we seek to ensure that VA studies and learns from them.

CONCLUSION

Mr. President, many terminally ill veterans do not want to spend their last days in a hospital environment receiving high technology, curative care. These veterans, who have served our country with honor and dignity, choose a different type of environment, one where pain management and emotional support are the focus. They are veterans like Tom, a West Virginian whose plight the committee learned of in 1991. The executive director of the Hospice of Huntington, WV, Charlene Farrell, told the committee that while Tom was in the hospital, suffering from cancer, this depressed veteran asked that the drapes be closed so he could sit in darkness. Eventually, his daughters decided to use their modest resources to purchase hospice care from a non-VA provider, because their father longed for the type of care and support that a hospital simply cannot offer. We owe veterans like Tom nothing less than the best hospice care our Nation can provide. The Veterans Hospice Care Services Act of 1995 will help us meet our obligation to these brave men and women.

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. 612

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 ''Veterans' Hospice Care Services Act of 1995''.

SEC. 2. PROGRAMS FOR FURNISHING HOSPICE CARE TO VETERANS.

(a) ESTABLISHMENT OF PROGRAMS.—Chapter 17 of title 38, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VII—HOSPICE CARE PILOT PROGRAM; HOSPICE CARE SERVICES

''§ 1761. Definitions

''For the purposes of this subchapter—

''(1) The term 'terminally ill veteran' means any veteran—

''(A) who is (i) entitled to receive hospital care in a medical facility of the Department under section 1710(a)(1) of this title, (ii) eligible for hospital or nursing home care in such a facility and receiving such care, (iii) receiving care in a State home facility for which care the Secretary is paying per diem under section 1741 of this title, or (iv) transferred to a non-Department nursing home for nursing home care under section 1720 of this title and receiving such care; and

''(B) who has a medical prognosis (as certified by a Department physician) of a life expectancy of six months or less.

''(2) The term 'hospice care services' means—

''(A) the care, items, and services referred to in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)); and

''(B) personal care services.

''(3) The term 'hospice program' means any program that satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)).

''(4) The term 'medical facility of the Department' means a facility referred to in section 1701(4)(A) of this title.

''(5) The term 'non-Department facility' means a facility (other than a medical facility of the Department) at which care to terminally ill veterans is furnished, regardless of whether such care is furnished pursuant to a contract, agreement, or other arrangement referred to in section 1762(b)(1)(D) of this title.

''(6) The term 'personal care services' means any care or service furnished to a person that is necessary to maintain a person's health and safety within the home or nursing home of the person, including care or services related to dressing and personal hygiene, feeding and nutrition, and environmental support.

''§ 1762. Hospice care: pilot program requirements

''(a)(1) During the period beginning on October 1, 1995, and ending on December 31, 2000, the Secretary shall conduct a pilot program in order—

''(A) to assess the desirability of furnishing hospice care services to terminally ill veterans; and

''(B) to determine the most effective and efficient means of furnishing such services to such veterans.

''(2) The Secretary shall conduct the pilot program in accordance with this section.

''(b)(1) Under the pilot program, the Secretary shall—

''(A) designate not less than 15 nor more than 30 medical facilities of the Department at or through which to conduct hospice care services demonstration projects;

''(B) designate the means by which hospice care services shall be provided to terminally ill veterans under each demonstration project pursuant to subsection (c);

''(C) allocate such personnel and other resources of the Department as the Secretary considers necessary to ensure that services are provided to terminally ill veterans by the designated means under each demonstration project; and

''(D) enter into any contract, agreement, or other arrangement that the Secretary considers necessary to ensure the provision of such services by the designated means under each such project.

''(2) In carrying out the responsibilities referred to in paragraph (1) the Secretary shall take into account the need to provide for and conduct the demonstration projects so as to provide the Secretary with such information as is necessary for the Secretary to evaluate and assess the furnishing of hospice care services to terminally ill veterans by a variety of means and in a variety of circumstances.

''(3) In carrying out the requirement described in paragraph (2), the Secretary shall, to the maximum extent feasible, ensure that—

''(A) the medical facilities of the Department selected to conduct demonstration projects under the pilot program include facilities located in urban areas of the United States and rural areas of the United States;

''(B) the full range of affiliations between medical facilities of the Department and medical schools is represented by the facilities selected to conduct demonstration projects under the pilot program, including no affiliation, minimal affiliation, and extensive affiliation;

''(C) such facilities vary in the number of beds that they operate and maintain; and

''(D) the demonstration projects are located or conducted in accordance with any other criteria or standards that the Secretary considers relevant or necessary to furnish and to evaluate and assess fully the furnishing of hospice care services to terminally ill veterans.

''(c)(1) Subject to paragraph (2), hospice care to terminally ill veterans shall be furnished under a demonstration project by one or more of the following means designated by the Secretary:

''(A) By the personnel of a medical facility of the Department providing hospice care services pursuant to a hospice program established by the Secretary at that facility.

''(B) By a hospice program providing hospice care services under a contract with that program and pursuant to which contract any necessary inpatient services are provided at a medical facility of the Department.

''(C) By a hospice program providing hospice care services under a contract with that program and pursuant to which contract any necessary inpatient services are provided at a non-Department medical facility.

''(2)(A) The Secretary shall provide that—

''(i) care is furnished by the means described in paragraph (1)(A) at not less than five medical facilities of the Department; and

''(ii) care is furnished by the means described in subparagraphs (B) and (C) of paragraph (1) in connection with not less than five such facilities for each such means.

''(B) The Secretary shall provide in any contract under subparagraph (B) or (C) of paragraph (1) that inpatient care may be provided to terminally ill veterans at a medical facility other than that designated in the contract if the provision of such care at such other facility is necessary under the circumstances.

''(d)(1) Except as provided in paragraph (2), the amount paid to a hospice program for care furnished pursuant to subparagraph (B) or (C) of subsection (c)(1) may not exceed the amount that would be paid to that program for such care under section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)) if such care were hospice care for which payment would be made under part A of title XVIII of such Act.

''(2) The Secretary may pay an amount in excess of the amount referred to in paragraph (1) (or furnish services whose value, together with any payment by the Secretary, exceeds such amount) to a hospice program for furnishing care to a terminally ill veteran pursuant to subparagraph (B) or (C) of subsection (c)(1) if the Secretary determines, on a case-by-case basis, that—

''(A) the furnishing of such care to the veteran is necessary and appropriate; and

''(B) the amount that would be paid to that program under section 1814(i) of the Social Security Act would not compensate the program for the cost of furnishing such care.

''§ 1763. Care for terminally ill veterans

''(a) During the period referred to in section 1762(a)(1) of this title, the Secretary shall designate not less than 10 medical facilities of the Department at which hospital care is being furnished to terminally ill veterans in order to furnish the care referred to in subsection (b)(1).

''(b)(1) Palliative care to terminally ill veterans shall be furnished at the facilities referred to in subsection (a) by one of the following means designated by the Secretary:

''(A) By personnel of the Department providing one or more hospice care services to such veterans at or through medical facilities of the Department.

''(B) By personnel of the Department monitoring the furnishing of one or more of such services to such veterans at or through non-Department facilities.

''(2) The Secretary shall furnish care by the means referred to in each of subparagraphs (A) and (B) of paragraph (1) at not less than five medical facilities designated under subsection (a).

''§ 1764. Information relating to hospice care services

''The Secretary shall ensure to the extent practicable that terminally ill veterans who have been informed of their medical prognosis receive information relating to the eligibility, if any, of such veterans for hospice care and services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

''§ 1765. Evaluation and reports

''(a) Not later than September 30, 1996, and on an annual basis thereafter until October 1, 2001, the Secretary shall submit a written report to the Committees on Veterans' Affairs of the Senate and House of Representatives relating to the conduct of the pilot program under section 1762 of this title and the furnishing of hospice care services under section 1763 of this title. Each report shall include the following information:

''(1) The location of the sites of the demonstration projects provided for under the pilot program.

''(2) The location of the medical facilities of the Department at or through which hospice care services are being furnished under section 1763 of this title.

''(3) The means by which care to terminally ill veterans is being furnished under each such project and at or through each such facility.

''(4) The number of veterans being furnished such care under each such project and at or through each such facility.

''(5) An assessment by the Secretary of any difficulties in furnishing such care and the actions taken to resolve such difficulties.

''(b) Not later than August 1, 1999, the Secretary shall submit to the committees referred to in subsection (a) a report containing an evaluation and assessment by the Under Secretary for Health of the hospice care pilot program under section 1762 of this title and the furnishing of hospice care services under section 1763 of this title. The report shall contain such information (and shall be presented in such form) as will enable the committees to evaluate fully the desirability of furnishing hospice care services to terminally ill veterans.

''(c) The report under subsection (b) shall include the following:

''(1) A description and summary of the pilot program.

''(2) With respect to each demonstration project conducted under the pilot program—

''(A) a description and summary of the project;

''(B) a description of the facility conducting the demonstration project and a discussion of how such facility was selected in accordance with the criteria set out in, or prescribed by the Secretary pursuant to, subparagraphs (A) through (D) of section 1762(b)(3) of this title;

''(C) the means by which hospice care services care are being furnished to terminally ill veterans under the demonstration project;

''(D) the personnel used to furnish such services under the demonstration project;

''(E) a detailed factual analysis with respect to the furnishing of such services, including (i) the number of veterans being furnished such services, (ii) the number, if any, of inpatient admissions for each veteran being furnished such services and the length of stay for each such admission, (iii) the number, if any, of outpatient visits for each such veteran, and (iv) the number, if any, of home-care visits provided to each such veteran;

''(F) the direct costs, if any, incurred by terminally ill veterans, the members of the families of such veterans, and other individuals in close relationships with such veterans in connection with the participation of veterans in the demonstration project;

''(G) the costs incurred by the Department in conducting the demonstration project, including an analysis of the costs, if any, of the demonstration project that are attributable to (i) furnishing such services in facilities of the Department, (ii) furnishing such services in non-Department facilities, and (iii) administering the furnishing of such services; and

''(H) the unreimbursed costs, if any, incurred by any other entity in furnishing services to terminally ill veterans under the project pursuant to section 1762(c)(1)(C) of this title.

''(3) An analysis of the level of the following persons' satisfaction with the services furnished to terminally ill veterans under each demonstration project:

''(A) Terminally ill veterans who receive such services, members of the families of such veterans, and other individuals in close relationships with such veterans.

''(B) Personnel of the Department responsible for furnishing such services under the project.

''(C) Personnel of non-Department facilities responsible for furnishing such services under the project.

''(4) A description and summary of the means of furnishing hospice care services at or through each medical facility of the Department designated under section 1763(a)(1) of this title.

''(5) With respect to each such means, the information referred to in paragraphs (2) and (3).

''(6) A comparative analysis by the Under Secretary for Health of the services furnished to terminally ill veterans under the various demonstration projects referred to in section 1762 of this title and at or through the designated facilities referred to in section 1763 of this title, with an emphasis in such analysis on a comparison relating to—

''(A) the management of pain and health symptoms of terminally ill veterans by such projects and facilities;

''(B) the number of inpatient admissions of such veterans and the length of inpatient stays for such admissions under such projects and facilities;

''(C) the number and type of medical procedures employed with respect to such veterans by such projects and facilities; and

''(D) the effectiveness of such projects and facilities in providing care to such veterans at the homes of such veterans or in nursing homes.

''(7) An assessment by the Under Secretary for Health of the desirability of furnishing hospice care services by various means to terminally ill veterans, including an assessment by the Director of the optimal means of furnishing such services to such veterans.

''(8) Any recommendations for additional legislation regarding the furnishing of care to terminally ill veterans that the Secretary considers appropriate.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

''SUBCHAPTER VII—HOSPICE CARE PILOT PROGRAM; HOSPICE CARE SERVICES

''1761. Definitions.
''1762. Hospice care: pilot program requirements.
''1763. Care for terminally ill veterans.
''1764. Information relating to hospice care services.
''1765. Evaluation and reports.''.

(c) AUTHORITY TO CARRY OUT OTHER HOSPICE CARE PROGRAMS.—The amendments made by subsection (a) may not be construed as terminating the authority of the Secretary of Veterans Affairs to provide hospice care services to terminally ill veterans under any program in addition to the programs required under the provisions added by such amendments.

(d) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for the Department of Veterans Affairs for the purposes of carrying out the evaluation of the hospice care pilot programs under section 1765 of title 38, United States Code (as added by subsection (a)), as follows:

(1) For fiscal year 1996, $1,200,000.
(2) For fiscal year 1997, $2,500,000.
(3) For fiscal year 1998, $2,200,000.
(4) For fiscal year 1999, $100,000.●

By Mr. ROCKEFELLER (for himself, Mr. GRAHAM, Mr. AKAKA, Mr. DORGAN, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. DASCHLE, Mr. LEAHY, Mrs. MURRAY, and Mr. WELLSTONE):

S. 613. A bill to authorize the Secretary of Veterans Affairs to conduct pilot programs in order to evaluate the feasibility of participation of the Department of Veterans Affairs health care system in the health care systems of States that have enacted health care reform; to the Committee on Veterans' Affairs.

VA STATE HEALTH CARE REFORM PILOT PROGRAM ACT

● Mr. ROCKEFELLER. Mr. President, although the efforts of the last Congress to provide national health care reform failed, many States have already enacted reform legislation. These States have taken the first, important steps on the road to universal coverage. I applaud the efforts of these courageous legislators. They are giving their citizens health care security. These State plans provide Congress with the perfect opportunity to learn from their successes and to study the effects of reform on existing Federal medical programs, including the VA medical system.

The VA medical system—the Nation's largest health care system—cannot participate fully in health care reform efforts in specific States because current Federal law makes it impossible for VA facilities to do so. This deprives VA of the kinds of experiences and information it needs to thrive under national health care reform. If this situation continues, we will miss a valuable opportunity to study the effects of reform.

At a February 9, 1994, Senate Committee on Veterans' Affairs' hearing on VA participation in State health care reform, then-Acting Deputy Under Secretary of Health, Elwood Headley, M.D., stated that as a public health care system, VA lacks experience in participating in a competitive environment.

Mr. President, I believe VA will do well in a national plan under which costs are controlled and coverage is expanded for all Americans, because VA already operates within a fixed budget. VA must, however, have the opportunity to learn what kinds of changes are needed in the VA medical system as a whole.

It is in the spirit of improving VA medical services for veterans that I am today introducing a bill that would require VA to conduct a pilot health care reform program. This VA State Health Care Reform Pilot Program would enable VA to participate in the health care reform programs of several States. I am delighted to be joined in sponsoring this bill by Committee members BOB GRAHAM, DAN AKAKA, BYRON DORGAN, FRANK MURKOWSKI, and JIM JEFFORDS, and by Senators TOM DASCHLE, PATRICK LEAHY, PATTY MURRAY, and PAUL WELLSTONE.

At the committee's February 9, 1994, hearing, John Bollinger, deputy executive director of the Paralyzed Veterans of America, testified that ''the pilot programs will give VA in those states the opportunity to become a full participant in the health care system. It will also provide valuable experience to draw upon when the full VA system faces the same challenges in the context of national health care reform.'' I agree wholeheartedly.

SUMMARY OF PROVISIONS

Mr. President, this legislation would enable VA to evaluate the most appropriate means of participating in reformed State health care systems, providing invaluable information to help them prepare for national health care reform.

This bill would give VA the authority to select up to five States with comprehensive health benefit plans in place, or where such plans are imminent, to participate in the pilot program for a period of 2 years. The bill would authorize VA facilities in the selected States to offer free comprehensive care to all compensable service-connected veterans and to all veterans with incomes below the current levels that apply to inpatient care.

The legislation would grant the Secretary authority to waive certain laws and regulations that could interfere with the ability of VA facilities to participate in State health care reform activities.

This legislation would give VA medical center directors flexibility in allocating their resources, except with respect to regional programs, such as spinal cord injury services, post-traumatic stress disorder, blind rehabilitation, and substance abuse programs, which are funded from central office.

The bill would give the head of the VA in selected States—the VA health system director—the authority to contract out for medical services without prior review from VA central office.

For other services, VA facilities within the State would have the authority to enter into contracts below $250,000 without prior review by central office. Contracts above $250,000 would be reviewed by central office, but would automatically be approved if central office did not make a decision within 30 days. This would give local VA facilities the autonomy they need to increase their number of providers in a timely manner.

This bill would also give local VA facilities more flexibility in the hiring process, by extending authority that is currently available for hiring certain title 38 personnel to the hiring of all staff. This is intended to help VA facilities hire the best possible employees in a timely manner.

The bill would exempt VA facilities in the pilot program from FTE cuts. Arbitrary FTE cuts could make it impossible for VA facilities to compete under health care reform.

The legislation would give the participating VA facilities the authority to carry over leftover funding from one year to the next. Again, this would help VA facilities make better use of limited funds.

Finally, this legislation would give VA the authority to collect employer contributions and other third-party payments for noncore veterans who choose VA health care. These payments would enable VA facilities to provide care for all veterans who choose VA health care, not just core veterans.

CONCLUSION

Mr. President, VA needs legislative relief from restrictions in current law which, although enacted for good and appropriate reasons, could prevent VA facilities from competing as providers in certain States. The major obstacle which must be overcome is that VA facilities cannot qualify as providers under some state plans because of current eligibility requirements. Under various State proposals, all citizens would be eligible to choose a provider, and all providers must offer the same basic package of services. In most States, VA could not be considered a provider for several reasons, including the restrictions which limit preventive and primary care.

Mr. President, the ''VA State Health Care Reform Pilot Program'' would provide VA with invaluable experience regarding how it needs to change in order to survive and thrive under health care reform. the ''VA State Health Care Reform Pilot Program'' will help us meet our obligation to the brave men and women who served in every branch of the Armed Forces, by improving the VA medical system that serves them.

Mr. President, one final note before closing. On Friday, March 17, 1995, Secretary of Veterans Affairs Jesse Brown submitted to our committee notice of a plan to realign the field management of the Veterans Health Administration. Pursuant to section 510(b) of title 38, United States Code, this realignment cannot go into effect for 90 days of continuous session of Congress.

Should there be no action of the Congress to modify the Secretary's proposed plan—and I know of no such proposed action at this point—VA will undertake a very significant realignment of the field management structure of VHA. I mention this possibility in the context of my introduction of this measure today, because it is likely that the proposed pilot authority would have to be modified in light of the realignment. Such changes in the legislation can be discussed later in the committee's consideration of the issue, at which time we will have a better sense of the outcome of the Secretary's proposed field realignment.

Mr. President, I am looking forward to working with Senator SIMPSON and all the members of the Senate Committee on Veterans' Affairs, as well as with the chairman of the House Committee on Veterans' Affairs, BOB STUMP, and chairman of the House Subcommittee on Hospitals and Health Care, TIM HUTCHINSON. This legislation was passed by the Senate in the last Congress, and I hope that we can move forward with it in this Congress.

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. 613

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 ''VA State Health Care Reform Pilot Program Act''.

SEC. 2. PURPOSE OF PILOT PROGRAMS.

The purpose of this Act is to authorize the participation of the Department of Veterans Affairs health care system in the health care systems of States that have enacted health care reform in order to evaluate the most appropriate means of enabling the Department health care system to participate in such systems and in the National health care system contemplated under any plans for National health care reform.

SEC. 3. HEALTH CARE PILOT PROGRAMS.

(a) IN GENERAL.—The Secretary may carry out pilot programs on the participation of the Department of Veterans Affairs health care system in the health care systems of States that have adopted comprehensive health benefit plans. The Secretary shall carry out any pilot program under this Act in accordance with the provisions of this Act.

(b) STATES ELIGIBLE FOR DESIGNATION.—(1) The Secretary shall designate each of not more than five States as a location for a pilot program under this Act. The Secretary shall complete the designation of States as locations for pilot programs not later than 30 days after the date of the enactment of this Act.

(2) The Secretary may designate a State as a location for a pilot program under this Act if the Secretary determines that—

(A) the State has enacted, or will soon enact, a statute establishing or providing for a comprehensive health benefit plan; and

(B) the participation of the health care system of the Department under the plan is feasible and appropriate in light of the purpose of this Act.

(c) DEPARTMENT PARTICIPATION IN STATE HEALTH BENEFIT PLANS—(1) To the maximum extent practicable, the Secretary shall provide eligible persons under each pilot program under this Act with the comprehensive package of basic health care benefits that would otherwise be available to such persons under the comprehensive health benefit plan of the State in which the pilot program is carried out. The Secretary shall provide such benefits through the health care system of the Department in such State as if such system were a provider of such benefits under such plan.

(2) Notwithstanding any other provision of law, a State may not prohibit the participation of the Department under the comprehensive health benefit plan of the State under a pilot program unless the chief executive officer of the State certifies to the Secretary that—

(A) the benefits to be provided by the Department under the pilot program do not meet requirements for quality of benefits established by or provided under the plan; or

(B) the location of Department facilities (including facilities providing services by contract or agreement with the Secretary) in the State is such that the proximity of eligible persons to such facilities does not meet requirements so established for such proximity.

(3) Not later than 30 days after the designation of a State as a location for a pilot program under this Act, and at such other times as the Secretary may determine, the Secretary and the health system director for that State shall jointly determine the regulations under the authority of the Secretary the waiver or modification of which is necessary in order to facilitate the carrying out of the pilot program. Upon such determination, the Secretary shall waive or modify the application of such regulations to the pilot program.

(4) The Secretary shall furnish any eligible person living in a State in which a pilot program is carried out (including any eligible person electing to receive benefits under the pilot program and any eligible person not electing to receive benefits under the pilot program) with the health care benefits for which such person is eligible under chapter 17 of title 38, United States Code, notwithstanding that the comprehensive package of basic health care benefits provided under the comprehensive health benefit plan of the State does not otherwise include such health care benefits. The Secretary shall furnish any health care benefits under this paragraph in accordance with the provisions of that chapter.

(5) The Secretary may not provide any health care benefit under a pilot program under this Act that the Secretary is not otherwise authorized to provide under the laws administered by the Secretary.

(d) HEALTH SYSTEM DIRECTOR.—(1) The Secretary shall designate a health system director for each State in which a pilot program is carried out under this Act. To the maximum extent feasible, the Secretary shall delegate to the health system directors the responsibilities of the Secretary under this Act.

(2)(A) Subject to subparagraph (B), the Secretary shall designate an individual as health system director for a State from among nominees for that position selected by a panel composed of individuals who are senior management personnel of the Department medical centers located in that State.

(B) An individual selected for nomination to be a health system director of a State under subparagraph (A) shall be—

(i) the director or chief of staff of a Department medical center located in the State in which the pilot program is carried out; or

(ii) any other individual having experience with the Department medical system that is equivalent to the experience with that system of an individual in a position referred to in clause (i).

(e) ADMINISTRATIVE REORGANIZATION.—The Secretary may carry out any administrative reorganization of an office, facility, activity, or function of the health care system of the Department in a State in which a pilot program is carried out that the Secretary and the health system director jointly determine to be necessary in order to facilitate the carrying out of the pilot program. Section 510(b) of title 38, United States Code, shall not apply to any such administrative reorganization.

(f) PROVISION OF BENEFITS.—(1)(A) Except as provided in subparagraph (B), the Secretary shall provide health care benefits under a pilot program—

(i) through the direct provision of such services by the health care system of the Department in the State in which the pilot program is carried out; or

(ii) by contract or other agreement in accordance with paragraph (2).

(B) The Secretary may exclude facilities of the Department from participation in a pilot program. Any facilities so excluded shall continue to provide health care benefits to veterans and other persons eligible for such benefits in accordance with the provisions of laws administered by the Secretary.

(2) The health system director of a pilot program may enter into contracts and agreements for the provision of health care services and contracts and agreements for other services with respect to the pilot program under paragraph (1)(A)(ii). Any such contract or agreement (including any lease) shall not be subject to the following provisions of law:

(A) Section 8110(c) of title 38, United States Code, relating to contracting of services at Department health-care facilities.

(B) Section 8122(a)(1) of such title, relating to the lease of Department property.

(C) Section 8125 of such title, relating to local contracts for the procurement of health-care items.

(D) Section 702 of title 5, United States Code, relating to the right of review of agency wrongs by courts of the United States.

(E) Sections 1346(a)(2) and 1491 of title 28, United States Code, relating to the jurisdiction of the district courts of the United States and the United States Court of Federal Claims, respectively, for the actions enumerated in such sections.

(F) Subchapter V of chapter 35 of title 31, United States Code, relating to adjudication of protests of violations of procurement statutes and regulations.

(G) Sections 3526 and 3702 of such title, relating to the settlement of accounts and claims, respectively, of the United States.

(H) Subsections (b)(7), (e), (f), (g), and (h) of section 8 of the Small Business Act (15 U.S.C. 637(b)(7), (e), (f), (g), and (h)), relating to requirements with respect to small businesses for contracts for property and services.

(I) The provisions of law assembled for purposes of codification of the United States Code as section 471 through 544 of title 40 that relate to the authority of the Administrator of General Services over the lease and disposal of Federal Government property.

(J) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), relating to the procurement of property and services by the Federal Government.

(K) Chapter 3 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), relating to the procurement of property and services by the Federal Government.

(L) Office of Management and Budget Circular A–76.

(3)(A) Notwithstanding any other provision of law, contracts and agreements for the provision of health care services under this subsection may include contracts and other agreements with insurers, health care providers, or other individuals or entities that provide health care services.

(B) Contracts and agreements under this paragraph may be entered into without prior review by the Central Office of the Department.

(4)(A) Contracts and agreements under this subsection for services other than the services referred to in paragraph (3) (including contracts and agreements for procurement of equipment, maintenance and repair services, and other services related to the provision of health care services) shall not be subject to prior review by the Central Office if the amount of such contracts or agreements is less than $250,000.

(B) Contracts and agreements for services under this paragraph shall be subject to prior review by the Central Office if the amount of such contracts or agreements is $250,000 or greater. If the Central Office fails to approve or reject a contract or agreement under this clause within 30 days of its submittal to the Central Office, such contract or agreement shall be deemed approved by the Central Office.

(g) DEPARTMENT PERSONNEL.—(1) Notwithstanding any other provision of law and to the extent necessary to carry out the purpose of a pilot program, the Secretary may—

(A) appoint personnel to positions in the health care system of the Department in the State in which the pilot program is carried out in accordance with such standards for such positions as the Secretary may establish; and

(B) promote and advance personnel serving in such positions in accordance with such standards as the Secretary may establish.

(2) Not later than 60 days after the designation of a State as a location for a pilot program under this Act, or at such other time as the Secretary may determine, the Secretary shall request authority from the Director of the Office of Management and Budget to permit the Secretary to employ a number of full time equivalent employees in the health care system of the Department in that State which exceeds the number of such employees that would otherwise be authorized for such employment by the Director.

(3) Notwithstanding any other provision of law, employees of the Department at facilities of the Department under a pilot program shall not, during the carrying out of the pilot program, be subject to any reduction in the number of full time employees of the Department or as a result of a reduction in the number of full time employees of the Federal Government.

(h) ELIGIBLE PERSONS.—(1) A person eligible for health care benefits under a pilot program is any person residing in a State in which a pilot program is carried out as follows:

(A) Any veteran.

(B) Any spouse or child of a veteran.

(C) Any individual eligible for care under paragraph (2) or (3) of section 1713(a) of title 38, United States Code.

(2) Notwithstanding any other provision of law, a State may not require that any person other than a person referred to in paragraph (1) be eligible for health care benefits through the Department under a pilot program.

(i) COPAYMENTS AND OTHER CHARGES.—(1) Except as provided in paragraph (2), the Secretary may collect from or on behalf of any individual receiving health care benefits from the Secretary under a pilot program under this Act a premium, deductible, copayment, or other charge with respect to the provision of a benefit under the pilot program. The amount of the premium, deductible, copayment, or other charge collected with respect to a benefit provided under a pilot program may not exceed the maximum amount otherwise permitted for a premium, deductible, copayment, or other charge with respect to that benefit under the comprehensive health benefits plan of the State in which the pilot program is carried out.

(2)(A) Except as provided in subparagraph (B), the Secretary shall not collect under the pilot programs premiums, deductibles, copayments, and other charges with respect to the benefits provided by the Department to the following:

(i) Veterans with compensable service-connected disabilities.

(ii) Veterans whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty.

(iii) Veterans who are in receipt of, or who, but for a suspension pursuant to section 1151 of title 38, United States Code (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veterans' continuing eligibility for such care is provided for in the judgment or settlement provided for in such section.

(iv) Veterans who are former prisoners of war.

(v) Veterans of the Mexican border period or of World War I.

(vi) Veterans who are unable to defray the expenses of necessary care, as determined in accordance with section 1722(a) of such title.

(B) The Secretary may collect premiums, deductibles, copayments, and other charges with respect to benefits provided under a pilot program to veterans referred to in subparagraph (A) from any third party obligated to provide, or to pay the expenses of, such benefits to or for such veterans under the comprehensive health benefits plan of the State in which the pilot program is carried out.

(j) FUNDING.—(1) There is established in the Treasury a fund to be known as the Department of Veterans Affairs Health Care Reform Fund (hereafter referred to in this subsection as the ''Fund'').

(2)(A) Notwithstanding any other provision of law, amounts shall be deposited in the Fund as follows:

(i) Amounts collected under a pilot program in accordance with subsection (i).

(ii) Amounts made available to a pilot program based upon a determination under paragraph (3).

(iii) Amounts transferred to the Fund with respect to a pilot program under paragraph (4).

(iv) Such other amounts as the Secretary and the health system directors of the pilot programs jointly determine to be necessary in order to carry out the pilot programs.

(v) Such other amounts as may be appropriated to the pilot programs.

(B) The Secretary shall make available amounts under clauses (ii) and (iv) of subparagraph (A) from amounts appropriated to the Department of Veterans Affairs for the provision of health care services.

(C) The Secretary shall establish and maintain a separate account under the Fund for each pilot program carried out under this Act. Any deposits and expenditures with respect to a pilot program shall be made to or from the account established and maintained with respect to that pilot program.

(3)(A) For each year of the operation of a pilot program under this Act, the Secretary

shall deposit in account of the Fund for the pilot program an amount (as determined by the Secretary) equal to the amount that would otherwise be made available to the health care system of the Department in the State in which the pilot program is carried out for the payment of the cost of health care services by such system in that State in that year. The Secretary shall deposit such amount at the beginning of such year.

(B) The costs referred to in subparagraph (A) shall not include costs relating to the provision by the Secretary of the following services:

(i) Services relating to post-traumatic stress disorder.

(ii) Services relating to spinal-cord dysfunction.

(iii) Services relating to substance abuse.

(iv) Services relating to the rehabilitation of blind veterans.

(v) Services relating to prosthetics.

(4) Funds deposited in the Medical-Care Cost Recovery Fund established under section 1729(g) of title 38, United States Code, during any fiscal year in an amount in excess of the Congressional Budget Office baseline (as of the date of the enactment of this Act) for deposits in that fund for that fiscal year shall not be subject to paragraph (4) of section 1710(f), 1712(f), or 1729(g) (as the case may be) of that title, but shall be transferred to the fund established under this subsection. Such transfer for any fiscal year shall be made at any time that the total of amounts so received less amounts estimated to cover the expenses, payments, and costs described in paragraph (3) of section 1729(g) of that title is in excess of the applicable Congressional Budget Office baseline.

(5)(A) Notwithstanding any other provision of law, the health system director for a State in which a pilot program is carried out shall determine the costs for which amounts in the Fund may be expended in carrying out the pilot program.

(B)(i) Except as provided in clause (ii), the costs of carrying out a pilot program under this paragraph shall include any costs of marketing and advertising under the program, costs of legal services provided to such pilot program by the General Counsel of the Department of Veterans Affairs, and costs relating to acquisition (including acquisition of land), construction, repair, or renovation of facilities.

(ii) Costs under this subparagraph shall not include any costs relating to a major medical facility project or a major medical facility lease as such terms are defined in subparagraphs (A) and (B) of section 8104(a)(3) of title 38, United States Code, respectively.

(C) Amounts in the Fund for the payment of costs of a pilot program under this subsection shall be available for such purpose without fiscal year limitation.

(k) TERMINATION.—A pilot program carried out under this Act shall terminate not later than 2 years after the date of the commencement of provision of benefits under the pilot program.

SEC. 4. REPORTS ON PILOT PROGRAMS.

(a) COLLECTION OF INFORMATION.—(1) The Secretary shall collect such information with respect to the provision of health care benefits under each pilot program as is necessary to permit the Secretary to evaluate the pilot program in light of the purpose of the pilot program under this Act.

(2) The information collected by the Secretary under paragraph (1) shall include aggregated data on the following:

(A) The number of persons participating in each pilot program, including the age, sex, health status, disability ratings (if any), employment status, and incomes of such persons.

(B) The nature of benefits sought by such persons under each pilot program.

(C) The nature and quantity of benefits provided to such persons under each pilot program.

(D) The cost to the Department of providing such benefits under each pilot program.

(b) REPORTS.—(1) Not later than 14 months after the date of the completion of the designation of States as locations for pilot programs under this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the progress of the Secretary in carrying out the pilot programs. Such report shall include the information referred to in subsection (a)(2) on the date of the report.

(2) Not later than November 30 of the year of the termination of the final pilot program under this Act, the Secretary shall submit to the committees referred to in paragraph (1) a report on the pilot programs carried out under this Act. The report shall include the following:

(A) The information referred to in subsection (a)(2), together with the comments and conclusions of the Secretary with respect to such information.

(B) An assessment by the Secretary of the utility of each pilot program for carrying out the purpose of this Act.

(C) An assessment by the Secretary of appropriate means of integrating the health care system of the Department into the health care systems of States that have enacted health care reform and into the National health care system contemplated under any plans for National health care reform.

(D) Such other information, assessments, and conclusions as the Secretary considers appropriate.

SEC. 5. DEFINITIONS.

For the purposes of this Act—

(1) The terms ''Secretary'', ''Department'', ''veteran'', ''child'' and ''spouse'' have the meanings given such terms in paragraphs (1), (2), (4), and (31) of section 101 of title 38, United States Code, respectively.

(2) The term ''comprehensive health benefit plan'', in the case of a State, means a plan or system established under the law of the State that—

(A) attempts to ensure the access of residents of the State to a comprehensive package of basic health care benefits; and

(B) ensures such access by providing that such benefits shall be provided directly or by contract by public and private entities.

(3) The term ''comprehensive package of basic health care benefits'' means the health care benefits provided for by a State under the comprehensive health benefit plan of the State.

(4) The term ''health care system of the Department'', in the case of a State designated as a location for a pilot program, means the facilities and personnel of the Department located in that State that provide health care services under chapter 17 of title 38, United States Code.●

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 614. A bill to confer jurisdiction of the U.S. Court of Federal Claims with respect to land claims of Pueblo of Isleta Indian Tribe, and for other purposes; to the Committee on the Judiciary.

PUEBLO OF ISLETA LAND CLAIMS ACT

Mr. BINGAMAN. Mr. President, I rise today with my good friend and distinguished colleague, Senator DOMENICI, to reintroduce a bill on behalf of our constituents, the people of the Pueblo of Isleta in New Mexico. The Senate approved and passed an identical version of this measure in the previous Congress. Unfortunately, the House adjourned before its Members were able to take action on our bill, but a similar measure was approved by the House in the 102d Congress.

The legislation we are introducing today will provide authority for New Mexico's Pueblo of Isleta to file an aboriginal land claim in the United States Court of Federal Claims under the Indian Claims Act. The bill does not pass judgment on the claim or give the Pueblo priority on the court's docket. If, however, the Pueblo of Isleta proves to the court that it does indeed have a valid claim of aboriginal land use and occupancy, then appropriate monetary compensation would be determined by the court.

In April 1992, the House Judiciary Subcommittee on Administrative Law and Governmental Relations held a hearing on an early version of our bill. During that hearing, testimony made clear that the Pueblo of Isleta—like all the Pueblo Tribes in New Mexico—had standing to pursue land claims under the Indian Claims Act of 1946. Under the act, claims could be based either on title to the land or aboriginal use, but all claims must have been filed by 1951.

Unfortunately, due to incomplete or improper advice from counsel, the Pueblo of Isleta filed only a limited claim based on a Spanish land grant, to which there was a written record, before the 1951 deadline. According to tribal leaders, their fore-fathers were not informed by counsel that they could file a claim based on aboriginal land use. Significantly, the Pueblo's counsel was a Bureau of Indian Affairs official who was later found by the court to have given erroneous advice on a similar matter to the Pueblo of Zuni. Like many other tribes, the Pueblos of Zuni and Isleta were completely dependent on the Bureau of Indian Affairs for advice and assistance regarding land claims during the 1940's and 1950's.

Mr. President, this legislation would simply allow the Pueblo of Isleta to pursue a claim today, much like legislation Congress approved some years ago for the Pueblo of Zuni. Again, the bill does not give the Pueblo priority on the court's docket, and it does not pass judgement on the claim itself.

The people of the Pueblo of Isleta are entitled to their day in court. This bill assures them of that right. I urge my colleagues to support its swift passage.

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. 614

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

SECTION 1. JURISDICTION.

(a) IN GENERAL.—Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052, chapter 959), or any other law that would interpose or support a defense of untimeliness, jurisdiction is hereby conferred upon the United States Court of Federal Claims to hear, determine, and render judgment on any claim by the Pueblo of Isleta Indian Tribe of New Mexico against the United States with respect to any lands or interests therein in the State of New Mexico or any adjoining State that were held by aboriginal title or otherwise and that were acquired from the tribe without payment of adequate compensation by the United States.

(b) INTEREST.—As a matter of adequate compensation, the United States Court of Federal Claims may award interest at a rate of 5 percent per year to accrue from the date on which such lands or interests therein were acquired from the tribe by the United States.

(c) LIMITATIONS.—Such jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946. All such claims must be filed not later than 3 years after the date of enactment of this Act.

(d) JURISDICTION IS NOT DEPENDENT ON EXHAUSTION.—Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedy.

SEC. 2. CERTAIN DEFENSES NOT APPLICABLE.

Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are the subject of a claim submitted by the tribe under section 1 shall not be considered a defense, estoppel, or set-off to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

By Mr. AKAKA (for himself and Mr. CRAIG):

S. 615. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war; to the Committee on Veterans' Affairs.

VETERANS OUTPATIENT HEALTH CARE ACT

Mr. AKAKA. Mr. President, today I am introducing legislation that would ensure that all former prisoners of war [POW's] receive outpatient care provided by the Department of Veterans Affairs [VA]. Under current law, POW's with service-connected disabilities are entitled to outpatient medical services. However, POW's with less than 30 percent disability may be provided outpatient services at the discretion of VA. This distinction is unfair to many POW's and fails to recognize the trauma and brutality of imprisonment endured by all former POW's. I am pleased to have Senators CRAIG, ROCKEFELLER, and CAMPBELL join me as original cosponsors of this measure.

Mr. President, the need for this legislation is clear. All of America's POW's deserve to be treated equally. Americans would agree that those who served in defense of our Nation and were imprisoned by the enemy deserve special consideration.

Some may feel this legislation is unnecessary because VA has been providing outpatient services to POW's. But, when times get tough and funding becomes tight, POW's without service-connected disabilities, or with a lower disability rating, may be denied outpatient care. This is exactly what happened in 1990. Due to budgetary reasons, two midwestern VA medical centers began denying outpatient services to former POW's. Fortunately, through congressional intervention, this policy was reversed and POW's continued to receive ambulatory care. Although we are facing a lean fiscal climate, accountants should not determine whether our POW's receive outpatient care.

This bill only seeks to ensure that VA will continue to provide outpatient services at all times to POW's. As of January 1, 1995, there were only 62,676 former U.S. POW's, 94 percent of whom served in World War II. As we observe the 50th anniversary of the conclusion of World War II, this bill provides a fitting tribute to the sacrifices made by POW's on behalf of our country.

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

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

S. 615

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

SECTION 1. ELIGIBILITY OF FORMER PRISONERS OF WAR TO RECEIVE OUTPATIENT MEDICAL SERVICES FROM THE DEPARTMENT OF VETERANS AFFAIRS.

Section 1712(a)(1) of title 38, United States Code, is amended—

(1) by striking out ''and'' at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ''; and''; and

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

''(E) to any former prisoner of war for any disability.''.

AMERICAN EX-PRISONERS OF WAR,
NATIONAL CAPITAL OFFICE,
Washington, DC, March 22, 1995.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: On behalf of our 33,000 members, I want to thank you very warmly for introducing the bill to guarantee outpatient care for ex-POWs.

This bill, which was passed in 1992 by the Senate, means a great deal to our members. Several years ago two VA Medical Centers discontinued outpatient care to ex-POWs to save money. Although outpatient care was restored to those Centers, we never know when this may occur again.

Senator Akaka, we consider you a good friend of the former prisoners of war, and we are looking forward to working with your colleagues to assure enactment by Congress.

Again our sincere gratitude to you for introducing this bill for us.

Sincerely,

CHARLES S. PRIGMORE,
National Commander.

● Mr. CRAIG. Mr. President, I am pleased to be joining my colleague from Hawaii, Senator AKAKA, in introducing legislation that will clarify veterans health services for ex-prisoners of war [ex-POW].

This bill will amend title 38 of the United States Code, ensuring access to outpatient medical services for any disability of a former prisoner of war. Mr. President, these services are currently being provided in accordance with a directive from the Secretary of the Veterans Administration. This bill is necessary in order to secure, by law, access to these services by our veterans who have suffered as prisoners of war.

The law currently covers inpatient medical services for ex-POWs. However, as medical care continues to convert into more outpatient care, we need to ensure that those who are in need of care can obtain it in the most cost-effective manner. In the long-term this should ensure that we continue to provide care in the most cost effective manner as more ailments are treated on an outpatient basis. In short, we will be better able to control costs and provide better delivery of care to those veterans who suffered at the hands of our enemies as prisoners of war.

Mr. President, I would like to point out that bills similar to this one have previously passed the Senate. However, they have never completed the process leading to enactment. I hope that my colleagues will see the merit in this legislation and support it so that we can see it signed into law during this Congress.●

By Mr. BINGAMAN:

S. 616. A bill to amend the Tariff Act of 1930 to provide parity between the United States and certain free-trade agreement countries with respect to the exemption for personal and household effects purchased abroad by returning residents, and for other purposes; to the Committee on Finance.

BORDER TARIFFS ACT

Mr. BINGAMAN. Mr. President, I rise today to offer a bill to correct an inequity that has developed along our border with Mexico with respect to tariffs on goods crossing the border.

The United States currently permits duty-free entry of $400 of retail goods for personal consumption each month. There is a 10-percent duty on the next 1,000 dollars' worth of purchases brought into the United States. Mexico, by contrast, limits the amount of goods that can be imported for personal consumption to $50 per day. Goods above that amount have a duty of approximately 33 percent.

Mr. President, this difference in policy obviously hampers trade along our borders. It is yet another burden on our border businesses, which are also currently struggling with the adverse effects of the peso crisis on the ability of Mexican citizens to purchase goods in the United States.

Before introducing this legislation in the 103d Congress, I had hoped that this problem could be corrected administratively. I wrote to the Secretary of

State about this issue. With my fellow border Senators, I also contacted the Commissioner of Customs in our country and President Salinas in Mexico. All, ultimately, to no avail.

I still believe that there are two tracks we can take to persuade the Government of Mexico to increase its duty-free limit, and I believe that we should pursue both of them. The first is to get our Government to negotiate with the Government of Mexico to equalize the duties. My good friend and colleague from Arizona, Senator DeConcini, who retired at the end of the 103d Congress, inserted language in the fiscal year 1995 Commerce, State, Justice appropriations report that would direct the U.S. Trade Representative to make doing so a priority. It is my understanding that USTR officials have raised the issue in trade talks, but that the issue has yet to be resolved. Until it is resolved, I believe that we should pursue a second track, that of changing the exemption provided for in our tariff laws to match that of Mexico's. Together, these two actions can help ensure that retail businesses on both sides of the border are on the same footing.

So, today, I rise to again offer legislation that would equalize the amount of personal retail goods that can cross the border duty-free in either direction. This legislation simply says that our duty will not be lower than Mexico's.

By Mr. COATS (for himself and Mr. LIEBERMAN):

S. 618. A bill to provide a low-income school choice demonstration program; to the Committee on Labor and Human Resources.

SCHOOL CHOICE DEMONSTRATION ACT

Mr. COATS. Mr. President, I rise today, with my colleague from Connecticut, to introduce the School Choice Demonstration Act. This bill will establish 10 to 20 demonstration projects to study the effects of providing low-income parents and their children with financial assistance to enable them to select the public or private school of their choice.

This is a very simple and straightforward bill—we want to enable low-income parents to choose the school their children attend. They can select a public or a private school, but the point is that they will be able to make a choice. Up until now, only those families who can afford to send their children to private schools have had that option. Senator LIEBERMAN and I believe that all families should have the opportunity to choose where their children will be educated. For too long, we have asked everyone to pay for a particular type of education without ensuring that people have a say in what they receive for their money.

American education has reached a critical point. Time has taught us that we cannot simply throw more and more money at the public schools, and rely on that to improve education. As many of you know, annual per pupil spending has tripled in the last 30 years, while student achievement has dropped dramatically, evidenced by a decrease in average SAT scores of almost 90 points. Clearly, more money is not the solution.

We have to do something soon. In inner cities across America, almost half of all high school students fail to graduate. This is a chilling statistic. We should take it as a wake up call. Obviously, something is seriously wrong with our educational system. This bill proposes an option for some students who are not succeeding in the public education system.

Our bill is simple. It says, let us allot a small amount of funds, so that 10 to 20 demonstration grants can be awarded to local districts around the country who are interested in offering increased educational opportunities to their students. The funds granted by this bill will provide assistance to children from the lowest-income homes. The children eligible under this program are those children who qualify for reduced or free school lunches. These funds will only go to low-income families. And they are to be used to pay for education costs at public or private schools. The parents choose which school their child will attend.

We have incorporated a very strict civil rights and desegregation protection clause to make sure that participating schools can in no way discriminate on the basis of race. We also stipulate that demonstration projects cannot continue if they interfere with these desegregation plans.

The cost of this program will be $30 million and there will be no more than 20 projects. School districts would voluntarily apply for the grants through the secretary of education, and we have established some criteria for the secretary to make the determination as to which districts would be included.

This bill also requires that a nationwide evaluation of the demonstration program be conducted. Up until now, discussion concerning the actual effects of school choice policies has been limited by a lack of conclusive data. This bill addresses that need for objective data. An evaluation will give us a baseline from which to conduct our discussion at the Federal level.

Many localities are already experimenting with some type of school choice. My home State of Indiana, for example, has several existing choice initiatives under way. One program, originated by Golden Rule Insurance, helps low-income children in Indianapolis attend the private school of their choice by awarding them scholarships to cover up to half of the tuition costs. There are currently 1,100 students being sponsored, and 650 kids are on the waiting list. Our public schools are also experimenting with choice. Indianapolis public schools, for example, has initiated the select schools program, by which parents can choose which IPS school their child will attend. Eighty-six percent of IPS parents participated in this program this year.

I have spoken with educators in a district in Indiana who have already expressed an interest in the program. Some public school educators have met with private and parochial school educators and there is a real interest in testing the concept to see how it works, to work out the bugs, and to see if it would actually make a difference.

None of you should have any reason to oppose this bill. It is not a mandate. It is a purely voluntary program for those local education associations who are interested in broadening the educational opportunities offered in their community. This bill provides a basis by which we in Congress can evaluate the validity of this particular concept. If it results in substantially new opportunities for low-income children, then shouldn't such data be offered to school districts and education agencies across this country? Why would we not want to have this information available so we can make intelligent choices? After all, we are not here to protect a particular system. Our bottom line is to provide the best education opportunities to American children. For far too long, we have denied low-income families the educational choice that many others have.

It is important to understand what this bill does not do. It does not force choice on anyone. This bill presents a purely voluntary program. It will not upset the American public education system. Ten to twenty voluntary choice programs throughout the country will not upset public education.

Furthermore, Federal resources will not be drained from any public school or education system. The Secretary cannot reduce or deny funds that a public school would otherwise be eligible for, even though students in that school or school system opted out or numbers decreased. This bill does not violate civil rights protections. It does not destroy public education. In fact, I think it enhances public education.

My home is Fort Wayne, IN. For decades our education system has thrived on competition. We have a vigorous Catholic school education system in Fort Wayne, IN. We have a Lutheran school system because of our heavy concentration of people of Lutheran belief. They have established their own system.

These two systems exist, along with other private education opportunities, side by side with the public education system in Fort Wayne and they are all thriving. They are thriving because the parents and students of Fort Wayne have a choice. The competition between those three systems has caused each system to better their education program to compete with each other for the students, and they work hand in hand. Parents in Fort Wayne have opportunities which parents in many States and areas do not have.

This bill says that it is time for low-income families to have the same

choice concerning their child's school that those who can afford to send their kids to private schools already have. Let's try this limited demonstration project and see if it improves the education of some of America's neediest children.

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. 618

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 ''Low-Income School Choice Demonstration Act of 1995''.

SEC. 2. PURPOSE.

The purpose of this Act is to determine the effects on students and schools of providing financial assistance to low-income parents to enable such parents to select the public or private schools their children will attend.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term ''choice school'' means any public or private school, including a private sectarian school or a public charter school, that is involved in a demonstration project assisted under this Act;

(2) the term ''eligible child'' means a child in grades 1 through 12 who is eligible for free or reduced price lunches under the National School Lunch Act;

(3) the term ''eligible entity'' means a public agency, institution, or organization, such as a State, a State or local educational agency, a consortium of public agencies, or a consortium of public and private nonprofit organizations, that can demonstrate, to the satisfaction of the Secretary, its ability to—

(A) receive, disburse, and account for Federal funds; and

(B) carry out the activities described in its application under this Act;

(4) the term ''evaluating agency'' means any academic institution, consortium of professionals, or private or nonprofit organization, with demonstrated experience in conducting evaluations, that is not an agency or instrumentality of the Federal Government;

(5) the term ''local educational agency'' has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965;

(6) the term ''parent'' includes a legal guardian or other individual acting in loco parentis;

(7) the term ''school'' means a school that provides elementary education or secondary education (through grade 12), as determined under State law; and

(8) the term ''Secretary'' means the Secretary of Education.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $30,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 and 1998, to carry out this Act.

SEC. 5. PROGRAM AUTHORIZED.

(a) RESERVATION.—From the amount appropriated pursuant to the authority of section 4 in any fiscal year, the Secretary shall reserve and make available to the Comptroller General of the United States 5 percent for evaluation of programs assisted under this Act in accordance with section 11.

(b) GRANTS.—

(1) IN GENERAL.—From the amount appropriated pursuant to the authority of section 4 and not reserved under subsection (a) for any fiscal year, the Secretary shall award grants to eligible entities to enable such entities to carry out at least 10, but not more than 20, demonstration projects under which low-income parents receive education certificates for the costs of enrolling their eligible children in a choice school.

(2) AMOUNT.—The Secretary shall award grants under paragraph (1) for fiscal year 1996 so that—

(A) not more than 2 grants are awarded in amounts of $5,000,000 or less; and

(B) grants not described in subparagraph (A) are awarded in amounts of $3,000,000 or less.

(3) CONTINUING ELIGIBILITY.—The Secretary shall continue a demonstration project under this Act by awarding a grant under paragraph (1) to an eligible entity that received such a grant for a fiscal year preceding the fiscal year for which the determination is made, if the Secretary determines that such eligible entity was in compliance with this Act for such preceding fiscal year.

(c) USE OF GRANTS.—Grants awarded under subsection (b) shall be used to pay the costs of—

(1) providing education certificates to low-income parents to enable such parents to pay the tuition, the fees, the allowable costs of transportation, if any, and the costs of complying with section 9(a)(1), if any, for their eligible children to attend a choice school; and

(2) administration of the demonstration project, which shall not exceed 15 percent of the amount received in the first fiscal year for which the eligible entity provides education certificates under this Act or 10 percent in any subsequent year, including—

(A) seeking the involvement of choice schools in the demonstration project;

(B) providing information about the demonstration project, and the schools involved in the demonstration project, to parents of eligible children;

(C) making determinations of eligibility for participation in the demonstration project for eligible children;

(D) selecting students to participate in the demonstration project;

(E) determining the amount of, and issuing, education certificates;

(F) compiling and maintaining such financial and programmatic records as the Secretary may prescribe; and

(G) collecting such information about the effects of the demonstration project as the evaluating agency may need to conduct the evaluation described in section 11.

(d) SPECIAL RULE.—Any school participating in the demonstration program under this Act shall comply with title VI of the Civil Rights Act of 1964 and not discriminate on the basis of race, color, or national origin.

SEC. 6. AUTHORIZED PROJECTS; PRIORITY.

(a) AUTHORIZED PROJECTS.—The Secretary may award a grant under this Act only for a demonstration project that—

(1) involves at least one local educational agency that—

(A) receives funds under section 1124A of the Elementary and Secondary Education Act of 1965; and

(B) is among the 20 percent of local educational agencies receiving funds under section 1124A of such Act in the State and having the highest number of children described in section 1124(c) of such Act; and

(2) includes the involvement of a sufficient number of public and private choice schools, in the judgment of the Secretary, to allow for a valid demonstration project.

(b) PRIORITY.—In awarding grants under this Act, the Secretary shall give priority to demonstration projects—

(1) in which choice schools offer an enrollment opportunity to the broadest range of eligible children;

(2) that involve diverse types of choice schools; and

(3) that will contribute to the geographic diversity of demonstration projects assisted under this Act, including awarding grants for demonstration projects in States that are primarily rural and awarding grants for demonstration projects in States that are primarily urban.

SEC. 7. APPLICATIONS.

(a) IN GENERAL.—Any eligible entity that wishes to receive a grant under this Act shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(b) CONTENTS.—Each application described in subsection (a) shall contain—

(1) information demonstrating the eligibility for participation in the demonstration program of the eligible entity;

(2) with respect to choice schools—

(A) a description of the standards used by the eligible entity to determine which public and private schools are within a reasonable commuting distance of eligible children and present a reasonable commuting cost for such eligible children;

(B) a description of the types of potential choice schools that will be involved in the demonstration project;

(C)(i) a description of the procedures used to encourage public and private schools to be involved in the demonstration project; and

(ii) a description of how the eligible entity will annually determine the number of spaces available for eligible children in each choice school;

(D) an assurance that each choice school will not impose higher standards for admission or participation in its programs and activities for eligible children provided education certificates under this Act than the choice school does for other children;

(E) an assurance that each choice school operated, for at least 1 year prior to accepting education certificates under this Act, an educational program similar to the educational program for which such choice school will accept such education certificates;

(F) an assurance that the eligible entity will terminate the involvement of any choice school that fails to comply with the conditions of its involvement in the demonstration project; and

(G) a description of the extent to which choice schools will accept education certificates under this Act as full or partial payment for tuition and fees;

(3) with respect to the participation in the demonstration project of eligible children—

(A) a description of the procedures to be used to make a determination of eligibility for participation in the demonstration project for an eligible child, which shall include—

(i) the procedures used to determine eligibility for free or reduced price lunches under the National School Lunch Act; or

(ii) any other procedure, subject to the Secretary's approval, that accurately establishes the eligibility for such participation for an eligible child;

(B) a description of the procedures to be used to ensure that, in selecting eligible children to participate in the demonstration project, the eligible entity will—

(i) apply the same criteria to both public and private school eligible children; and

(ii) give priority to eligible children from the lowest income families;

(C) a description of the procedures to be used to ensure maximum choice of schools for participating eligible children, including procedures to be used when—

(i) the number of parents provided education certificates under this Act who desire to enroll their eligible children in a particular choice school exceeds the number of eligible children that the choice school will accept; and

(ii) grant funds and funds from local sources are insufficient to support the total cost of choices made by parents with education certificates under this Act; and

(D) a description of the procedures to be used to ensure compliance with section 9(a)(1), which may include—

(i) the direct provision of services by a local educational agency; and

(ii) arrangements made by a local educational agency with other service providers;

(4) with respect to the operation of the demonstration project—

(A) a description of the geographic area to be served;

(B) a timetable for carrying out the demonstration project;

(C) a description of the procedures to be used for the issuance and redemption of education certificates under this Act;

(D) a description of the procedures by which a choice school will make a pro rata refund of the education certificate under this Act for any participating eligible child who withdraws from the school for any reason, before completing 75 percent of the school attendance period for which the education certificate was issued;

(E) a description of the procedures to be used to provide the parental notification described in section 10;

(F) an assurance that the eligible entity will place all funds received under this Act into a separate account, and that no other funds will be placed in such account;

(G) an assurance that the eligible entity will provide the Secretary periodic reports on the status of such funds;

(H) an assurance that the eligible entity will cooperate with the Comptroller General of the United States and the evaluating agency in carrying out the evaluations described in section 11; and

(I) an assurance that the eligible entity will—

(i) maintain such records as the Secretary may require; and

(ii) comply with reasonable requests from the Secretary for information; and

(5) such other assurances and information as the Secretary may require.

SEC. 8. EDUCATION CERTIFICATES.

(a) EDUCATION CERTIFICATES.—

(1) AMOUNT.—The amount of an eligible child's education certificate under this Act shall be determined by the eligible entity, but shall be an amount that provides to the recipient of the education certificate the maximum degree of choice in selecting the choice school the eligible child will attend.

(2) CONSIDERATIONS.—

(A) IN GENERAL.—Subject to such regulations as the Secretary shall prescribe, in determining the amount of an education certificate under this Act an eligible entity shall consider—

(i) the additional reasonable costs of transportation directly attributable to the eligible child's participation in the demonstration project; and

(ii) the cost of complying with section 9(a)(1).

(B) SCHOOLS CHARGING TUITION.—If an eligible child participating in a demonstration project under this Act was attending a public or private school that charged tuition for the year preceding the first year of such participation, then in determining the amount of an education certificate for such eligible child under this Act the eligible entity shall consider—

(i) the tuition charged by such school for such eligible child in such preceding year; and

(ii) the amount of the education certificates under this Act that are provided to other eligible children.

(3) SPECIAL RULE.—An eligible entity may provide an education certificate under this Act to the parent of an eligible child who chooses to attend a school that does not charge tuition or fees, to pay the additional reasonable costs of transportation directly attributable to the eligible child's participation in the demonstration project or the cost of complying with section 9(a)(1).

(b) ADJUSTMENT.—The amount of the education certificate for a fiscal year may be adjusted in the second and third years of an eligible child's participation in a demonstration project under this Act to reflect any increase or decrease in the tuition, fees, or transportation costs directly attributable to that eligible child's continued attendance at a choice school, but shall not be increased for this purpose by more than 10 percent of the amount of the education certificate for the fiscal year preceding the fiscal year for which the determination is made. The amount of the education certificate may also be adjusted in any fiscal year to comply with section 9(a)(1).

(c) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of an eligible child's education certificate shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency in which the public school to which the eligible child would normally be assigned is located for the fiscal year preceding the fiscal year for which the determination is made.

(d) INCOME.—An education certificate under this Act, and funds provided under the education certificate, shall not be treated as income of the parents for purposes of Federal tax laws or for determining eligibility for any other Federal program.

SEC. 9. EFFECT ON OTHER PROGRAMS; USE OF SCHOOL LUNCH DATA.

(a) EFFECT ON OTHER PROGRAMS.—

(1) IN GENERAL.—An eligible child participating in a demonstration project under this Act, who, in the absence of such a demonstration project, would have received services under part A of title I of the Elementary and Secondary Education Act of 1965 shall be provided such services.

(2) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this Act shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act.

(b) COUNTING OF ELIGIBLE CHILDREN.—Notwithstanding any other provision of law, any local educational agency participating in a demonstration project under this Act may count eligible children who, in the absence of such a demonstration project, would attend the schools of such agency, for purposes of receiving funds under any program administered by the Secretary.

(c) SPECIAL RULE.—Notwithstanding section 9 of the National School Lunch Act, an eligible entity receiving a grant under this Act may use information collected for the purpose of determining eligibility for free or reduced price lunches to determine an eligible child's eligibility to participate in a demonstration project under this Act and, if needed, to rank families by income, in accordance with section 7(b)(3)(B)(ii). All such information shall otherwise remain confidential, and information pertaining to income may be disclosed only to persons who need that information for the purposes of a demonstration project under this Act.

(d) CONSTRUCTION.—

(1) SECTARIAN INSTITUTIONS.—Nothing in this Act shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this Act.

(2) DESEGREGATION PLANS.—Nothing in this Act shall be construed to interfere with any desegregation plans that involve school attendance areas affected by this Act.

SEC. 10. PARENTAL NOTIFICATION.

Each eligible entity receiving a grant under this Act shall provide timely notice of the demonstration project to parents of eligible children residing in the area to be served by the demonstration project. At a minimum, such notice shall—

(1) describe the demonstration project;

(2) describe the eligibility requirements for participation in the demonstration project;

(3) describe the information needed to make a determination of eligibility for participation in the demonstration project for an eligible child;

(4) describe the selection procedures to be used if the number of eligible children seeking to participate in the demonstration project exceeds the number that can be accommodated in the demonstration project;

(5) provide information about each choice school, including information about any admission requirements or criteria for each choice school participating in the demonstration project; and

(6) include the schedule for parents to apply for their eligible children to participate in the demonstration project.

SEC. 11. EVALUATION.

(a) ANNUAL EVALUATION.—

(1) CONTRACT.—The Comptroller General of the United States shall enter into a contract, with an evaluating agency that has demonstrated experience in conducting evaluations, for the conduct of an ongoing rigorous evaluation of the demonstration program under this Act.

(2) ANNUAL EVALUATION REQUIREMENT.—The contract described in paragraph (1) shall require the evaluating agency entering into such contract to annually evaluate each demonstration project under this Act in accordance with the evaluation criteria described in subsection (b).

(3) TRANSMISSION.—The contract described in paragraph (1) shall require the evaluating agency entering into such contract to transmit to the Comptroller General of the United States—

(A) the findings of each annual evaluation under paragraph (1); and

(B) a copy of each report received pursuant to section 12(a) for the applicable year.

(b) EVALUATION CRITERIA.—The Comptroller General of the United States, in consultation with the Secretary, shall establish minimum criteria for evaluating the demonstration program under this Act. Such criteria shall provide for—

(A) a description of the implementation of each demonstration project under this Act and the demonstration project's effects on all participants, schools, and communities in the demonstration project area, with particular attention given to the effect of parent participation in the life of the school and the level of parental satisfaction with the demonstration program; and

(B) a comparison of the educational achievement of all students in the demonstration project area, including a comparison of—

(i) students receiving education certificates under this Act; and

(ii) students not receiving education certificates under this Act.

SEC. 12. REPORTS.

(a) REPORT BY GRANT RECIPIENT.—Each eligible entity receiving a grant under this Act shall submit to the evaluating agency entering into the contract under section 11(a)(1) an annual report regarding the demonstration project under this Act. Each such report shall be submitted at such time, in such manner, and accompanied by such information, as such evaluating agency may require.

(b) REPORTS BY COMPTROLLER GENERAL.—

(1) ANNUAL REPORTS.—The Comptroller General of the United States shall report annually to the Congress on the findings of the annual evaluation under section 11(a)(2) of each demonstration project under this Act. Each such report shall contain a copy of—

(A) the annual evaluation under section 11(a)(2) of each demonstration project under this Act; and

(B) each report received under subsection (a) for the applicable year.

(2) FINAL REPORT.—The Comptroller General shall submit a final report to the Congress within 9 months after the conclusion of the demonstration program under this Act that summarizes the findings of the annual evaluations conducted pursuant to section 11(a)(2).

Mr. LIEBERMAN. Mr. President, I am very pleased to join Senator COATS today to introduce the Low-Income School Choice Demonstration Act. I know Senator COATS shares my deep commitment to improving education. All of our children deserve and need the best possible academic instruction. Increasing school choice will help give more children the opportunity they deserve.

Our bill authorizes up to 20 demonstration projects to determine the effects on students and schools of providing education vouchers to low-income parents for their children. Parents would use the vouchers to choose the public or private school their child would attend. The demonstration programs will give participating children new opportunities, and will provide those participating children new opportunities, and will provide those of us seeking to strengthen education with a fair evaluation of private school choice programs.

Education in America is in need of change. We are failing too many of our children. The performance of our kids lags behind that of children living in those countries we compete with in the global marketplace. While we have many fine schools, we have too many that do not give our children what they need to succeed.

I have visited many excellent public schools in Connecticut, and have met countless dedicated and effective teachers and administrators. I command them for their work and am committed to supporting their efforts. At the same time, it is clear that the public schools are not working for all students, particularly in our poorest communities. We have a responsibility to seek more effective ways to address the needs of these children.

School choice programs expand opportunity for low-income children. They provide low-income children with the same options other kids have. For some that may mean another public school, for others a private or parochial school.

Private school choice opens doors for children in our poorest neighborhoods, where religious schools—particularly Catholic schools—often have had better results than public schools. I have long believed what some research has shown—that the success of parochial schools is in part due to their students' and teachers' shared beliefs and strong moral values. Lower-income parents who want their kids to learn in a religious environment should have that chance, just as wealthier parents do.

Some fear that school choice programs will hurt our public schools, but I think choice will help revitalize public education. A national panel of experts, the Panel on the Economics of Educational Reform, recently concluded that public schools have few incentives for innovation. Good, effective teachers are often not rewarded by greater pay. Programs are rarely evaluated systematically to see if they are working.

Choice programs and charter school programs hold schools accountable for results. Voucher programs let parents and students reward good schools—public or private schools—with their business. That increased competition may help those students who stay put as well as those who choose to attend a new school.

As a U.S. Senator I have worked to promote public and private school choice. Last year Congress passed legislation, which I had co-authored, to promote the establishment of charter schools—public schools that are freed from burdensome regulatory requirements and are instead held accountable for improving the performance of their students. I am pleased that Congress made a commitment to public school choice, and will work to ensure the new program the rapidly growing interest in charter schools.

This year Senator COATS and I are introducing legislation that establishes demonstration programs that provide parents with the ability to choose private or public schools, including public charter schools and private parochial schools. The demonstrations will allow low-income children to attend the public or private school of their choice. The bill will also fund evaluations so that we can learn more about how voucher programs affect public and private schools, and how they affect our children's ability to learn.

Improving public education is and must be our country's top priority. What we are trying to do is find new ways to accomplish that goal. School choice programs should be tested. They create competition for failing bureaucracies and failing schools. They reward public and private schools that work. And, most important, they give our poorest students the chance for a better education and a better life.

Mr. President, I thank Senator COATS for his leadership on this bill, and I look forward to continuing to work with him to ensure our children have the education and opportunity they deserve.

By Mr. SMITH (for himself, Mr. LAUTENBERG, Mr. FAIRCLOTH, Mr. MCCONNELL, Mr. SIMON, Mr. MACK, Mr. BOND, Mr. GRAHAM, Mr. LIEBERMAN, Mr. WARNER and Mr. REID):

S. 619. A bill to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purposes; to the Committee on Environment and Public Works.

THE MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT

MR. SMITH. Mr. President, today I am introducing the Mercury-Containing and Rechargeable Battery Management Act. I am pleased to be joined by Senators LAUTENBERG, FAIRCLOTH, MCCONNELL, LIEBERMAN, SIMON, MACK, BOND, GRAHAM, WARNER and REID. This legislation is urgently needed to remove Federal barriers detrimental to much-needed State and local recycling programs for batteries commonly found in cordless products such as portable telephones, laptop computers, tools, and toys.

Since 1992, Federal battery legislation has been approved in various congressional forums, including passage by the Senate in 1994, but it did not become law because the legislation to which it was attached did not move forward. Our bill, which is virtually identical to the Senate passed provisions last year, would—

First, facilitate the efficient and cost effective collection and recycling or proper disposal of used nickel cadmium [Ni-Cd] and certain other batteries by: establishing a coherent national system of labeling for batteries and products; streamlining the regulatory requirements for battery collection programs for regulated batteries; and encouraging voluntary industry programs by eliminating barriers to funding the collection and recycling or proper disposal of used rechargeable batteries; and

Second, phase out the use of mercury in batteries.

Without this legislation, States and industry face Federal barriers to implementing State battery recycling programs across the country. Thirteen States, including New Hampshire, have enacted legislation requiring that Ni-Cd and small sealed lead-acid batteries be labeled and are easily removable from consumer products. Of these 13 States, 9 have enacted legislation calling for the collection of Ni-Cd and small-sealed lead-acid batteries.