SNOWE) was added as a cosponsor of S. 598, a bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program.

S. 603

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 603, a bill to amend part A of title IV of the Social Security Act to give States the option to create a program that allows individuals receiving temporary assistance to needy families to obtain post-secondary or longer duration vocational education.

S. 606

At the request of Mr. GREGG, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 606, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 606

At the request of Mr. DODD, his name was added as a cosponsor of S. 606, supra.

S. 622

At the request of Mr. GRASSLEY, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Missouri (Mr. BOND) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 622, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 634

At the request of Mr. HATCH, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 634, a bill to amend the National Trails System Act to direct the Secretary of the Interior to carry out a study on the feasibility of designating the Trail of the Ancients as a national historic trail.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.J. Res. 1, A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S. CON. RES. 6

At the request of Ms. LANDRIEU, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Con. Res. 6, A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of Daniel ''Chappie'' James, the Nation's first African-American four-star general.

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. Res. 48, A resolution designating April 2003 as ''Financial Literacy for Youth Month''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER:

S. 637. A bill to amend the Internal Revenue Code of 1986 to allow the first $2,000 of health insurance premiums to be fully deductible; to the Committee on Finance.

Mrs. BOXER. Mr. President, today, I am introducing the Health Insurance Tax Relief Act to help our Nation's working families deal with the recent dramatic increases in health care costs. The legislation would allow taxpayers to deduct up to $2000 in out-of-pocket health insurance costs per year.

While this small Federal contribution to assist families with the health care costs they bear will not solve all of the problems in our health care system, it will provide immediate help for working families who have seen health care costs explode. In 2001, the last year for which we have data, the cost of health care for employer sponsored insurance rose 11 percent. To deal with this increase, 75 percent of large employers and 42 percent of small business employers said they were likely to increase employee premium costs.

In addition, according to the Center for Health System Change, employers will likely be raising deductibles and co-payments and perhaps using more coinsurance, where patients pay a percentage of the cost of their care rather than a fixed dollar amount. And, some businesses are dropping health insurance benefits entirely.

This is an issue of fairness. We already provide a tax break for small business owners who provide health insurance, and we also provide one for individuals who are self-employed. But currently there is no provision that allows for employees, who are faced with additional financial responsibility for their premium costs, to take a tax deduction on their out-of-pocket expenses. This legislation rectifies that unfairness and will help families meet rising health care costs.

The need for this legislation is particularly important for employees in small businesses, many of which sought to minimize premium increases by adding or increasing deductibles, copayments and coinsurance. But this shifting of health insurance costs from employers to employees is not limited to small firms. The California Public Employees' Retirement System, CalPERS, the second-largest purchaser of health care after the Federal Government, approved a 25 percent increase in health insurance premiums for 2003. CalPERS provides retirement and health benefit services to more than 1.3 million members and nearly 2,500 employers. These are hard working Americans struggling to make ends meet in a weak economy.

That is why, we should provide some targeted assistance to help families pay for health care. I urge my colleagues to support my legislation.

By Mr. DURBIN (for himself, Mr. FEINGOLD, Mr. LEAHY, Mr. HARKIN, Mr. KENNEDY, Mr. BAYH, Ms. CANTWELL, Mr. CORZINE, Mr. WYDEN, Ms. STABENOW, Mr. REED, Mr. SCHUMER, Mrs. BOXER, and Mr. KERRY):

S. 639. A bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, I rise today to introduce America's Red Rock Wilderness Act. This legislation is in keeping with our Nation's bipartisan commitment to preserve our natural heritage. The preservation of our Nation's vital natural resources will be one of our most important legacies.

Unfortunately, remaining wilderness areas are increasingly threatened and degraded by oil and gas development, mining, claims of rights of way, logging and off-road vehicles. America's Red Rock Wilderness Act will designate 9.1 million acres of land managed by the Bureau of Land Management, BLM, in Utah as wilderness under the Wilderness Act. Wilderness designation will preserve the land's wilderness character, along with the values associated with that wilderness—scenic beauty, solitude, wildlife, geological features, archaeological sites, and other features of scientific, educational, and historical value.

America's Red Rock Wilderness Act will provide wilderness protection for red rock cliffs offering spectacular vistas of rare rock formations, canyons and desert lands, important archaeological sites, and habitat for rare plant and animal species.

Volunteers took detailed inventories of thousands of square miles of BLM land in Utah to help determine which lands should be protected. These volunteers provided extensive documentation to ensure that these areas meet federal wilderness criteria.

The BLM also completed a re-inventory of approximately 6 million acres of Federal land in the same area. The results provide a convincing confirmation that the areas designated for protection under this bill meet Federal wilderness criteria.

For more than twenty years Utah conservationists have been working to add the last great blocks of undeveloped BLM-administered land in Utah to the National Wilderness Preservation System. The lands we propose to protect surround and connect eight of Utah's nine national park, monument and recreation areas. These proposed BLM wilderness areas easily equal their neighboring national parklands in scenic beauty, opportunities for recreation, and ecological importance. Yet, unlike the parks, most of these scenic treasures lack any form of long-term protection.

I'd like to thank all of my colleagues who are original cosponsors of this

measure this year, many of whom have supported the bill since it was first introduced. The original cosponsors of the measure are Senators FEINGOLD, LEAHY, HARKIN, KENNEDY, BAYH, CANTWELL, CORZINE, WYDEN, STABENOW, REED, SCHUMER, BOXER, and KERRY. Additionally, I would like to thank The Utah Wilderness Coalition, which includes The Wilderness Society and Sierra Club; The Southern Utah Wilderness Alliance; and all of the other national, regional and local, hard-working groups who, for years, have championed this legislation.

Theodore Roosevelt once stated, ''The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased and not impaired in value.'' Enactment of this legislation will help us realize Roosevelt's vision. In order to protect these precious resources in Utah for future generations, I urge my colleagues to support America's Red Rock Wilderness Act.

Mr. FEINGOLD. Mr. President, I am very pleased to again join with the Senator from Illinois, Mr. DURBIN, as an original co-sponsor of legislation to designate more than one million acres of Bureau of Land Management, BLM, lands in Utah as wilderness.

I had an opportunity to travel twice to Utah. I viewed firsthand some of the lands that would be designated for wilderness under Senator DURBIN's bill. I was able to view most of the proposed wilderness areas from the air, and was able to enhance my understanding through hikes outside of the Zion National Park on the Dry Creek Bench wilderness unit contained in this proposal and inside the Grand Staircase-Escalante National Monument to Upper Calf Creek Falls. I also viewed the lands proposed for designation in this bill from a river trip down the Colorado River, and in the San Rafael Swell with members of the Emery County government.

I support this legislation, for a few reasons, but most of all because I have personally seen what is at stake, and I know the marvelous resources that Wisconsinites and all Americans own in the BLM lands of Southern Utah.

Second, I support this legislation because I believe it sets the broadest and boldest mark for the lands that should be protected in Southern Utah. I believe that when the Senate considers wilderness legislation it ought to know, as a benchmark, the full measure of those lands which are deserving of wilderness protection. This bill encompasses all the BLM lands of wilderness quality in Utah. Unfortunately, the Senate has not, as we do today, always had the benefit of considering wilderness designations for all of the deserving lands in Southern Utah. During the 104th Congress, I joined with the former Senator from New Jersey, Mr. Bradley, in opposing that Congress's Omnibus Parks legislation. It contained provisions, which were eventually removed, that many in my home state of Wisconsin believed not only designated as wilderness too little of the Bureau of Land Management's holding in Utah deserving of such protection, but also substantively changed the protections afforded designated lands under the Wilderness Act of 1964.

The lands of Southern Utah are very special to the people of Wisconsin. In writing to me over the last few years, my constituents have described these lands as places of solitude, special family moments, and incredible beauty. In December 1997, Ron Raunikar of the Capital Times, a paper in Madison, WI, wrote: ''Other remaining wilderness in the U.S. is at first daunting, but then endearing and always a treasure for all Americans. The sensually sculpted slickrock of the Colorado Plateau and windswept crag lines of the Great Basin include some of the last of our country's wilderness which is not fully protected. We must ask our elected officials to redress this circumstance, by enacting legislation which would protect those national lands within the boundaries of Utah. This wilderness is a treasure we can lose only once or a legacy we can be forever proud to bestow to our children.''

I believe that the measure being introduced today will accomplish that goal. Identical in its designations to legislation sponsored in the other body by Rep. MAURICE HINCHEY of New York, it is the culmination of more than 17 years and five Congresses of effort in the other body beginning with the legislative work of our recent deceased colleague, the former Congressman from Utah, Mr. Owens.

The measure protects wild lands that really are not done justice by any description in words. In my trip I found widely varied and distinct terrain, remarkable American resources of red rock cliff walls, desert, canyons and gorges which encompass the canyon country of the Colorado Plateau, the Mojave Desert and portions of the Great Basin. The lands also include mountain ranges in western Utah, and stark areas like the Grand Staircase-Escalante National Monument. These regions appeal to all types of American outdoor interests from hikers and sightseers to hunters.

Phil Haslanger of the Capital Times, answered an important question I am often asked when people want to know why a Senator from Wisconsin would co-sponsor legislation to protect lands in Utah. He wrote on September 13, 1995 simply that ''These are not scenes that you could see in Wisconsin. That's part of what makes them special.'' He continues, and adds what I think is an even more important reason to act to protect these lands than the landscape's uniqueness, ''the fight over wilderness lands in Utah is a test case of sorts. The anti-environmental factions in Congress are trying hard to remove restrictions on development in some of the nation's most splendid areas.''

Wisconsinites are watching this test cane closely. I believe, that Wisconsinites view the outcome of this fight to save Utah's lands as a sign of where the nation is headed with respect to its stewardship of natural resources. For example, some in my home state believe that among federal lands that comprise the Apostle Islands National Lakeshore and the Nicolet and Chequamegon National Forests there are lands that are deserving of wilderness protection. These federal properties are incredibly important, and they mean a great deal to the people of Wisconsin. Wisconsinites want to know that, should additional lands in Wisconsin be brought forward for wilderness designation, the type of protection they expect from federal law is still available to be extended because it had been properly extended to other places of national significance.

What Haslanger's Capital Times comments make clear is that while some in Congress may express concern about creating new wilderness in Utah, wilderness, as Wisconsinites know, is not created by legislation. Legislation to protect existing wilderness insures that future generations may have an experience on public lands equal to that which is available today. The action of Congress to preserve wild lands by extending the protections of the Wilderness Act of 1964 will publicly codify that expectation and promise.

Third, this legislation has earned my support, and deserves the support of others in this body, because all of the acres that will be protected under this bill are already public lands held in trust by the federal government for the people of the United States. Thus, while they are physically located in Utah, their preservation is important to the citizens of Wisconsin as it is for other Americans.

Finally, I support this bill because I believe that there will likely be action during this Congress to develop consensus legislation to protect the lands contained in this proposal. We all need to be involved in helping to forge that consensus in order to ensure the best stewardship of that land. As many in this body know, the BLM has completed a review of the lands designated in the bill sponsored in the 106th Congress by the Senator from Illinois, Mr. DURBIN, and adjacent areas. BLM has found that 5.8 million acres of lands, slightly more than the acreage of the old bill, meet the criteria for wilderness protection under the Wilderness Act. While the re-inventory is not a formal recommendation to Congress for wilderness designation, it suggests that there are and should be more lands in play as the debate over wilderness protection in Utah moves forward.

I am eager to work with my colleague from Illinois, Mr. DURBIN, to protect these lands. I commend him for introducing this measure.

Mr. HARKIN. Mr. President, I am proud to join my colleagues as a cosponsor of the Redrock Wilderness Act. It designates 9.1 million acres of Federal public lands in Utah, managed by

the Bureau of Land Management, as a wilderness area under the 1964 Wilderness Act. Wilderness designation affords lands an extra level of protection—preserving the land in its ''wild'' state for future generations.

I know that citizens all across America, including many in Iowa, have enjoyed the wilderness in Redrock. Or some folks may never have visited that great place and just want it to be protected because it is so precious.

The redrock canyons of Utah are famous, even to many who have never been there. The dramatic cliff walls, sculpted by wind and water into swirling crimson towers have been captured in stunning photographs. Pink sandstone arches stretch across creek beds and gold-toned crevices slice through massive slabs of rock. These are refreshing sights we must save for generations to come.

And we must preserve Redrock for its invaluable wildlife. For example, some of Utah's last healthy populations of longhorn antelope and bighorn and sheep roam this isolated and majestic desert landscape.

Thanks to the Bush administration's rush to turn over public land for energy production, this unspoiled place is now in grave danger. The Interior Department has fast-tracked oil and gas leases and projects, opening the door to habitat destruction, road building, and industrial pollution. These precious lands should not be the target of energy production when we have bountiful sources of renewable energy, including sources from agriculture that can also help farmers and rural communities.

At a time when the administration is willfully neglecting our public lands by rejecting adequate funding for them, proposing oil and gas development in them, and increasing destructive logging practices, we need to protect these areas from such assaults.

Utah's unique Redrock Wilderness area should be designated as wilderness and protected from environmentally destructive activity. I am proud to be a cosponsor of the Redrock Wilderness Act, and urge my colleagues to support this important piece of legislation.

By Mr. LEAHY (for himself, Mr. HATCH, Ms. MIKULSKI, and Mr. DURBIN):

S. 640. A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes; to the Committee on Governmental Affairs.

Mr. LEAHY. Mr. President, I rise to introduce, with my good friends Senator HATCH, Senator MIKULSKI and Senator DURBIN, the Federal Prosecutors' Retirement Benefit Equity Act of 2003. This bill would correct an inequity that exists under current law, whereby Federal prosecutors receive substantially less favorable retirement benefits than other nearly all other people involved in the Federal criminal justice system. The bill would increase the retirement benefits given to Assistant United States Attorneys by including them as ''law enforcement officers'', LEOs, under the Federal Employees' Retirement System and the Civil Service Retirement System. The bill would also allow the Attorney General to designate other attorneys employed by the Department of Justice who act primarily as criminal prosecutors as LEO's for purposes of receiving these retirement benefits.

The primary reason for granting enhanced retirement benefits to LEOs is the often dangerous work of law enforcement. Currently, Assistant United States Attorneys, AUSAs, and other Federal prosecutors are not eligible for these enhanced benefits, which are enjoyed by the vast majority of other employees in the criminal justice system. This exclusion is unjustified. The relevant provisions of the United States Code dealing with retirement benefits define an LEO as an employee whose duties are, ''primarily the investigation, apprehension, or detention'' of individuals suspected or convicted of violating federal law. See 5 U.S.C. §§ 8331(20) & 8401(17). AUSAs and other federal prosecutors participate in planning investigations, interviewing witnesses both inside and outside of the office setting, debriefing defendants, obtaining warrants, negotiating plea agreements and representing the government at trials and sentencings, all of which fall within the definition of the duties performed by law enforcement officers. Indeed, once a defendant is brought to into the criminal justice system, the person with whom they have the most face-to-face contact, and often in an extremely confrontational environment, is the Federal prosecutor.

Although prosecutors do not personally execute arrests, searches and other physically dangerous activities, LEO status is accorded to many criminal justice employees who do not perform such tasks, such as pretrial services officers and probation officers and accountants, cooks and secretaries of the Bureau of Prisons. Moreover, because they are often the most conspicuous representatives of the government in the criminal justice system, Federal prosecutors are natural targets for threats of reprisals by vengeful criminals. Indeed, there are numerous incidents in which assaults and serious death threats have been made against federal prosecutors, sometimes resulting in significant disruption of their personal and family lives.

Only recently a veteran Federal prosecutor in the Western District of Washington was murdered in his home, and, although the crime remains unsolved, based upon the facts of the case the authorities have referred to the crime as a hit. In addition, I have received many other accounts from Federal prosecutors regarding specific threats to which they and their families have been subjected because of the performance of their duties. Federal prosecutors have written to me that they have been forced to relocate themselves and their families due to death threats; that they have been assaulted; that they and their families have been followed by members of criminal organizations; that have been forced to install security systems at their homes and to change their routes to and from the office to protect their safety and the safety of their families.

As our fight against terrorism continues, Federal prosecutors arel on the front lines once again as the symbols of our criminal justice system, and unfortunately therefore the targets of those who seek its downfall. Among other tasks, the Attorney General has designated AUSA's to play a major role working with police and Federal agents in each judicial district's Anti-Terrorism Task Force. One Federal prosecutor wrote to me stating that shortly after his name was in the local news as heading his district's Anti-Terrorism Task Force and he had spoken to his family about taking suitable precautions, that his young son came into his bedroom one night holding a hockey stick for protection asking about their safety. Thus, Federal prosecutors and their families will deal more than ever with a level of stress and danger that justifies their being treated as LEOs.

Another example of the danger facing Federal prosecutors appeared in the USA Today earlier this month. That article, which I ask unanimous consent to make part of the CONGRESSIONAL RECORD, reports that United States Attorney's will also be asked to play an advisory role in potential hostilities with Iraq. If there was ever an illustration of the importance of granting Federal prosecutors equal retirement status as their other law enforcement partners, this is it.

Enhanced retirement benefits are also justified by the Federal Government's need for experienced prosecutors to bring ever more sophisticated cases under increasingly complex Federal criminal laws. In recent years, we have seen the growth of complex Federal prosecutions to combat the threats posed by organized crime, drug cartels, terrorist groups and other sophisticated criminals. The prosecution of such difficult cases is best handled by experienced prosecutors. It is therefore in the public interest to provide reasonable financial incentives for talented, experienced prosecutors to remain in government service.

This bill would make Assistant United States Attorneys and other Federal prosecutors designated by the Attorney General eligible for immediate, unreduced retirement benefits at age 50 with 20 years of service. For example, prosecutors who are covered by the Civil Service Retirement System would receive 50 percent of the average of their three highest years' salary. At

the same time, it would exempt prosecutors from the mandatory retirement provisions that require other law enforcement officers to retire at age 57. Because the loss of physical strength and agility does not adversely affect a person's ability to function as a prosecutor, there is no reason to mandate early retirement.

Two important features of this bill will contain its costs. First, the bill provides that incumbent Federal prosecutors are themselves responsible for making up the difference in individual contributions owed to the Civil Service Retirement and Disability Fund for their prior service. An incumbent has the choice of making up this difference either by making a payment up front or by accepting a reduction in retirement benefits. Second, government contributions for the prior service of incumbents are made ratably over a ten-year period under this bill. Thus, payments for prior government contributions are spread out to lessen the financial impact. These two provisions will insure that the cost of the bill is kept well within reason.

This bill enjoys broad, grass roots support. When Senator HATCH and I introduced this same bill in the last Congress, I received literally hundreds of letters supporting this bill, sent from over 40 states, District of Columbia and Puerto Rico. The bill also enjoys support in the law enforcement community. The National Association of Assistant United States Attorneys, the Federal Criminal Investigators Association, and the Southern States Police Benevolent Association have all wrote me to voice support for the inclusion of AUSAs in the definition of an LEO. I tried, with Senator HATCH, to include this measure in our Department of Justice Authorization legislation in the last Congress, but the House would not agree to its inclusion in the conference report. I hope that we can work together in both houses to enact the bill in this Congress.

In addition, I know that other Senators, including Senator MIKULSKI, are considering additional measures to expand these same retirement benefits to other Federal employees who perform law enforcement functions, including IRS employees whose primary duty is to collect delinquent taxes. I cosponsored such a measure in the last Congress, and I continue to support and commend her leadership in bringing these matters to the forefront.

For all of these reasons, I am pleased to introduce this legislation with Senators HATCH, MIKULSKI and DURBIN, and I urge its swift enactment into law.

I ask unanimous consent that the text of the bill be printed in the RECORD along with the sectional analysis and the newspaper article to which I referred.

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

S. 640

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 ''Federal Prosecutors Retirement Benefit Equity Act of 2003''.

SEC. 2. INCLUSION OF FEDERAL PROSECUTORS IN THE DEFINITION OF A LAW ENFORCEMENT OFFICER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (20) of section 8331 of title 5, United States Code, is amended by striking ''position.'' and inserting ''position and a Federal prosecutor.''.

(2) FEDERAL PROSECUTOR DEFINED.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (27), by striking ''and'' at the end;

(B) in paragraph (28), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(29) 'Federal prosecutor' means—

''(A) an assistant United States attorney under section 542 of title 28; or

''(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States.''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (17) of section 8401 of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) in subparagraph (D), by adding ''and'' after ''agency;''; and

(C) by adding at the end the following:

''(E) a Federal prosecutor;''.

(2) FEDERAL PROSECUTOR DEFINED.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (33), by striking ''and'' at the end;

(B) in paragraph (34), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(35) 'Federal prosecutor' means—

''(A) an assistant United States attorney under section 542 of title 28; or

''(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States.''.

(c) TREATMENT UNDER CERTAIN PROVISIONS OF LAW (UNRELATED TO RETIREMENT) TO REMAIN UNCHANGED.—

(1) ORIGINAL APPOINTMENTS.—Subsections (d) and (e) of section 3307 of title 5, United States Code, are amended by adding at the end of each the following: ''The preceding sentence shall not apply in the case of an original appointment of a Federal prosecutor as defined under section 8331(29) or 8401(35).''.

(2) MANDATORY SEPARATION.—Sections 8335(b) and 8425(b) of title 5, United States Code, are amended by adding at the end of each the following: ''The preceding provisions of this subsection shall not apply in the case of a Federal prosecutor as defined under section 8331(29) or 8401(35).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 120 days after the date of enactment of this Act.

SEC. 3. PROVISIONS RELATING TO INCUMBENTS.

(a) DEFINITIONS.—In this section, the term—

(1) ''Federal prosecutor'' means—

(A) an assistant United States attorney under section 542 of title 28, United States Code; or

(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States; and

(2) ''incumbent'' means an individual who is serving as a Federal prosecutor on the effective date of this section.

(b) DESIGNATED ATTORNEYS.—If the Attorney General of the United States makes any designation of an attorney to meet the definition under subsection (a)(1)(B) for purposes of being an incumbent under this section,—

(1) such designation shall be made before the effective date of this section; and

(2) the Attorney General shall submit to the Office of Personnel Management before that effective date—

(A) the name of the individual designated; and

(B) the period of service performed by that individual as a Federal prosecutor before that effective date.

(c) NOTICE REQUIREMENT.—Not later than 9 months after the date of enactment of this Act, the Department of Justice shall take measures reasonably designed to provide notice to incumbents on—

(1) their election rights under this Act; and

(2) the effects of making or not making a timely election under this Act.

(d) ELECTION AVAILABLE TO INCUMBENTS.—

(1) IN GENERAL.—An incumbent may elect, for all purposes, to be treated—

(A) in accordance with the amendments made by this Act; or

(B) as if this Act had never been enacted.

(2) FAILURE TO ELECT.—Failure to make a timely election under this subsection shall be treated in the same way as an election under paragraph (1)(A), made on the last day allowable under paragraph (3).

(3) TIME LIMITATION.—An election under this subsection shall not be effective unless the election is made not later than the earlier of—

(A) 120 days after the date on which the notice under subsection (c) is provided; or

(B) the date on which the incumbent involved separates from service.

(e) LIMITED RETROACTIVE EFFECT.—

(1) EFFECT ON RETIREMENT.—In the case of an incumbent who elects (or is deemed to have elected) the option under subsection (d)(1)(A), all service performed by that individual as a Federal prosecutor shall—

(A) to the extent performed on or after the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, as amended by this Act; and

(B) to the extent performed before the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of such title, as if the amendments made by this Act had then been in effect.

(2) NO OTHER RETROACTIVE EFFECT.—Nothing in this Act (including the amendments made by this Act) shall affect any of the terms or conditions of an individual's employment (apart from those governed by subchapter III of chapter 83 or chapter 84 of title 5, United States Code) with respect to any period of service preceding the date on which such individual's election under subsection (d) is made (or is deemed to have been made).

(f) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—An individual who makes an election under subsection (d)(1)(A) may, with respect to prior service performed by such individual, contribute to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if the amendments made by section 2 had then been in effect.

(2) EFFECT OF NOT CONTRIBUTING.—If no part of or less than the full amount required

under paragraph (1) is paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be reduced in a manner similar to that described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(3) PRIOR SERVICE DEFINED.—For purposes of this section, the term ''prior service'' means, with respect to any individual who makes an election under subsection (d)(1)(A), service performed by such individual before the date as of which appropriate retirement deductions begin to be made in accordance with such election.

(g) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—If an incumbent makes an election under subsection (d)(1)(A), the Department of Justice shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under paragraph (2) with respect to such service.

(2) AMOUNT REQUIRED.—The amount the Department of Justice is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (over and above those actually paid) that would have been required if the amendments made by section 2 had then been in effect.

(3) CONTRIBUTIONS TO BE MADE RATABLY.—Government contributions under this subsection on behalf of an incumbent shall be made by the Department of Justice ratably (on at least an annual basis) over the 10-year period beginning on the date referred to in subsection (f)(3).

(h) REGULATIONS.—Except as provided under section 4, the Office of Personnel Management shall prescribe regulations necessary to carry out this Act, including provisions under which any interest due on the amount described under subsection (f) shall be determined.

(i) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act.

SEC. 4. DEPARTMENT OF JUSTICE ADMINISTRATIVE ACTIONS.

(a) DEFINITION.—In this section the term ''Federal prosecutor'' has the meaning given under section 3(a)(1).

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Attorney General of the United States shall—

(A) consult with the Office of Personnel Management on this Act (including the amendments made by this Act); and

(B) promulgate regulations for making designations of Federal prosecutors who are not assistant United States attorneys.

(2) CONTENTS.—Any regulations promulgated under paragraph (1) shall ensure that attorneys designated as Federal prosecutors who are not assistant United States attorneys have routine employee responsibilities that are substantially similar to those of assistant United States attorneys assigned to the litigation of criminal cases, such as the representation of the United States before grand juries and in trials, appeals, and related court proceedings.

(c) DESIGNATIONS.—The designation of any Federal prosecutor who is not an assistant United States attorney for purposes of this Act (including the amendments made by this Act) shall be at the discretion of the Attorney General of the United States.

[From the USA Today]

U.S. ATTORNEYS DISPATCHED TO ADVISE MILITARY

(By Steven Komarow)

KUWAIT CITY.—There could be civilians chained to an Iraqi missile launcher to serve as human shields. Tanks could be parked next to mosques. Chemical weapons plants might also produce medicine.

In a war with Iraq, U.S. commanders could often have an agonizing choice: strike a target and run the risk of killing civilians, and being accused by the rest of the world of committing a war crime, or hold fire and run the risk that Saddam Hussein will still have deadly weapons he can use against U.S. and British troops or neighboring countries.

To help weigh those issues, the Pentagon has dispatched dozens of attorneys to command posts in the region. Their job: help keep the United States legal if President Bush unleashes its fury against Saddam's forces.

Military commanders have long had legal advisers. But more than ever, attorneys are in the teams that choose the strategies, the targets and even the weapons to be used. Lawyers from the Army, Navy, Air Force and Marines will be working around-the-clock to be on hand when targets appear and fast decisions are needed.

With so much of the world skeptical of U.S. intentions, pressure will be high. ''The world expects the United States to do the right thing,'' says Capt. Noah Malgeri, an Army lawyer.

COLLATERAL DAMAGE

Col. Rocco Lamuro, who runs a course on ''targeting law'' at Ramstein Air Base in Germany, say that when air power came of age in World War II, the missions would almost always be planned weeks in advance. There weren't any spy satellites sending ''real-time'' pictures of enemy movements—and thus pushing commanders to make quick decisions on whether to strike. In World War II, there was plenty of time to discuss legalities and debate the potential ''collateral damage,'' the unintentional killing of civilians.

It was also true back then that collateral damage was accepted as an unfortunate but natural part of war. Sixty years ago, ''you might send 100 B–17 (bombers) to try to destroy something that's within an acre,'' Lamuro says. There were no ''smart bombs'' that could zero in on small targets. It was assumed that many bombs would hit ground far from the target. Today, Lamuro says, ''you'd send only one'' bomber or missile, and the weapon would be expected to hit its target.

When missiles do go awry, as happened when the United States accidentally struck the Chinese Embassy in Belgrade in May 1999 or when a bomb dropped on Baghdad hit a shelter and killed 408 civilians in 1991, there is alarm worldwide.

What do U.S. military lawyers—who work in offices of each service's Judge Advocate General (made famous by the CBS–TV show JAG)—use to guide them? The Law of Armed Conflict is a set of rules derived primarily from post-World War II Geneva Conventions. Commanders also must follow U.S. law and the top command's rules of engagement.

The rules are not pie-in-the-sky pronouncements. They reflect how battles are fought. They try to protect innocents but recognize the reality of battle. ''If you're a priest who's running around blessing people on the battlefield, you're OK,'' Lamuro says. ''If you pick up a gun, you'll get shot. You can't use a technicality to shield yourself.''

In most cases, there's little dispute about the legality of clear military targets. A tank on a battlefield is always fair game. A school is not—unless it can be proved that it's used as a military site.

Other cases are less clear, and legal issues aren't the only factors. There is, for instance, the issue of human shields. The 1949 Geneva Convention specifically states that the presence of civilians cannot be used to render a target immune from attack. Just because an enemy has surrounded a weapons depot with civilian volunteers does not make it an illegal target. Even so, Lamuro says, commanders must also worry about ''the CNN test.'' Is the target worth all the loss of innocent life—and the inevitable outcry? Targets such as dams and power plants also are hot-button issues because their destruction would harm civilians. The lawyers would advise they be destroyed only when necessary, Lamuro says. It's practical advice, he says, because the military must be ''as concerned with winning the peace as winning the wars.''

INDIVIDUALS

Targeting individuals is an especially difficult issue. A year ago, there were numerous reports that a Predator drone aircraft loaded with Hellfire missiles had the ousted Taliban leader Mohammed Omar in its sights in Afghanistan. But no missile was fired, reportedly on the advice of a lawyer.

It isn't known for sure whether the strike was scrubbed because civilians were nearby or for some other reason. But the incident provoked discussion about whether attorneys have too much influence. Lamuro says it would be wrong ''to overstate the lawyers's role.'' They are advisers, he says. Commanders make the ultimate choice.

One of the hottest legal topics that would be decided only at the highest levels is whether to target Saddam himself. Legally, it could depend on timing: Lawyers say that before a war, he would not be considered a valid military target. U.S. policy also prohibits assassinations of leaders.

If there was a war and Saddam was commanding the Iraqi army, he would be considered a combatant and could be targeted.

If he no longer had that role and allied forces caught him fleeing, the target status might be revoked. Instead, he might be given exile or arrested and charged with war crimes.

Another tenet of the Law of Armed Conflict is that the force used should be proportional to the task. For targeters, that fits neatly into their objective of conserving firepower.

''I look for the minimum number of targets that must be struck to adequately achieve the commander's objective,'' says one U.S. intelligence officer, who asked that his name not be reported to protect his identity. In the end, neither the lawyers nor the other officers in the targeting teams have the final word on what will be struck.

Air plans are reviewed and approved up the chain of command—again with attorneys on hand—to make sure the individual pieces add up to a war plan that is legally defensible.

''FEDERAL PROSECUTORS RETIREMENT BENEFIT EQUITY ACT OF 2003''

SECTION-BY SECTION ANALYSIS

Sec. 1. Short title. Contains the short title, the ''Federal Prosecutors Retirement Benefit Equity Act of 2003.''

Sec. 2. Inclusion of Federal prosecutors in the definition of a law enforcement officer. Amends 5 U.S.C. §§8331 and 8401 to extend the enhanced law enforcement officer, ''LEO'' retirement benefits to Federal prosecutors, defined to include assistant United States attorneys, ''AUSAs, and such other attorneys in the Department of Justice as are designated by the Attorney General of the

United States. This section also exempts Federal prosecutors from mandatory retirement provisions for LEO's under the civil service laws.

Sec. 3. Provisions relating to incumbents. Governs the treatment of incumbent Federal prosecutors who would be eligible for LEO retirement benefits under this Act. This section requires the Office of Personnel Management to provide notice to incumbents of their rights under this subtitle; allows incumbents to opt out of the LEO retirement program; governs the crediting of prior service by incumbents; and provides for make-up contributions for prior service of incumbents to the Civil Service Retirement and Disability Fund. The section gives incumbents the option of either contributing their own share of any make-up contributions or receiving a proportionally lesser retirement benefit. The section allows the government to contribute its share of any make-up contribution ratably over a ten year period.

Sec. 4. Department of Justice administrative actions. Allows the Attorney General to designate additional Department of Justice attorneys with substantially similar responsibilities, in addition to assistant United States attorneys, as Federal prosecutors for purposes of this Act and thus be eligible for the LEO retirement benefits.

By Mr. DOMENICI:

S. 643. A bill to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise to reintroduce a bill that authorizes the Secretary of the Interior to help construct and occupy part of the Hibben Center for Archaeological Research at the University of New Mexico. This bill will help the University of New Mexico finish a state of the art museum facility to store, and display the National Park Service's Chaco Collection.

Let me give you a bit of background. In 1907, Theodore Roosevelt founded the Chaco Canyon Culture National Historical Park in Northwestern New Mexico. The Monument was created to preserve the extensive prehistoric pueblo ruins in Chaco Canyon.

The height of the Chaco culture began in the mid 800's and lasted over 300 years. Dozens of complex multi-storied masonry buildings containing hundreds of rooms were built over that time. These complexes were connected to communities by a network of prehistoric roads. I helped to establish the Chaco Culture National Historic Park to preserve these areas.

Since 1907, the University of New Mexico and the National Park Service have been partners in this area. From 1907 to 1949, the University owned the land within the Park boundaries. During this period, Dr. Frank Hibben excavated in Chaco Canyon and remained interested in the area throughout his long career. The University built a large collection of artifacts that it retains today.

In 1949, the University deeded the land to the Federal Government, and since that time, the University and the Park Service have continued a partnership through a series of memoranda of understanding. Since 1985, the NPS Chaco collections have been housed at University of New Mexico's Maxwell Museum of Anthropology. As both the University of New Mexico and the National Park Service collections have begun to grow, a new home for them is needed.

To this end, Dr. Hibben began planning a new research and curation facility at the University of New Mexico. He asked the Park Service to partner with him on this project, and today, construction of the Hibben Center, a modern, professional facility to house the University of New Mexico's collections as well as the Park Service collections, is a reality.

Dr. Hibben recently passed away, and left the University of New Mexico the funds to assist with this project. The partnership between the Park Service and the University will mean that the Hibben Center will hold a world-class collection of historical artifacts and will facilitate and encourage the study of these important Southwestern collections.

This bill will provide authorization to pay for the Federal share of the improvement costs to the Hibben Center. This bill is long overdue, and will honor both the legacy of Dr. Hibben and the Chaco Culture.

I urge my colleagues to support this important piece of legislation.

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

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

S. 643

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 ''Hibben Center for Archaeological Research Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) when the Chaco Culture National Historical Park was established in 1907 as the Chaco Canyon National Monument, the University of New Mexico owned a significant portion of the land located within the boundaries of the Park;

(2) during the period from the 1920's to 1947, the University of New Mexico conducted archaeological research in the Chaco Culture National Historical Park;

(3) in 1949, the University of New Mexico—

(A) conveyed to the United States all right, title, and interest of the University in and to the land in the Park; and

(B) entered into a memorandum of agreement with the National Park Service establishing a research partnership with the Park;

(4) since 1971, the Chaco Culture National Historical Park, through memoranda of understanding and cooperative agreements with the University of New Mexico, has maintained a research museum collection and archive at the University;

(5) both the Park and the University have large, significant archaeological research collections stored at the University in multiple, inadequate, inaccessible, and cramped repositories; and

(6) insufficient storage at the University makes research on and management, preservation, and conservation of the archaeological research collections difficult.

SEC. 3. DEFINITIONS.

In this Act:

(1) HIBBEN CENTER.—The term ''Hibben Center'' means the Hibben Center for Archaeological Research to be constructed at the University under section 4(a).

(2) PARK.—The term ''Park'' means the Chaco Culture National Historical Park in the State of New Mexico.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) TENANT IMPROVEMENT.—The term ''tenant improvement'' includes—

(A) finishing the interior portion of the Hibben Center leased by the National Park Service under section 4(c)(1); and

(B) installing in that portion of the Hibben Center—

(i) permanent fixtures; and

(ii) portable storage units and other removable objects.

(5) UNIVERSITY.—The term ''University'' means the University of New Mexico.

SEC. 4. HIBBEN CENTER FOR ARCHAEOLOGICAL RESEARCH.

(a) ESTABLISHMENT.—The Secretary may, in cooperation with the University, construct and occupy a portion of the Hibben Center for Archaeological Research at the University.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may provide to the University a grant to pay the Federal share of the construction and related costs for the Hibben Center under paragraph (2).

(2) FEDERAL SHARE.—The Federal share of the construction and related costs for the Hibben Center shall be 37 percent.

(3) LIMITATION.—Amounts provided under paragraph (1) shall not be used to pay any costs to design, construct, and furnish the tenant improvements under subsection (c)(2).

(c) LEASE.—

(1) IN GENERAL.—Before funds made available under section 5 may be expended for construction costs under subsection (b)(1) or for the costs for tenant improvements under paragraph (2), the University shall offer to enter into a long-term lease with the United States that—

(A) provides to the National Park Service space in the Hibben Center for storage, research, and offices; and

(B) is acceptable to the Secretary.

(2) TENANT IMPROVEMENTS.—The Secretary may design, construct, and furnish tenant improvements for, and pay any moving costs relating to, the portion of the Hibben Center leased to the National Park Service under paragraph (1).

(d) COOPERATIVE AGREEMENTS.—To encourage collaborative management of the Chacoan archaeological objects associated with northwestern New Mexico, the Secretary may enter into cooperative agreements with the University, other units of the National Park System, other Federal agencies, and Indian tribes for—

(1) the curation of and conduct of research on artifacts in the museum collection described in section 2(4); and

(2) the development, use, management, and operation of the portion of the Hibben Center leased to the National Park Service under subsection (c)(1).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated—

(1) to pay the Federal share of the construction costs under section 4(b), $1,574,000; and

(2) to pay the costs of carrying out section 4(c)(2), $2,198,000.

(b) AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.

(c) REVERSION.—If the lease described in section 4(c)(1) is not executed by the date that is 2 years after the date of enactment of this Act, any amounts made available under subsection (a) shall revert to the Treasury of the United States.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. DEWINE, Mrs. HUTCHISON, Mr. SESSIONS, and Mr. GRASSLEY):

S. 644. A bill to enhance national efforts to investigate, prosecute, and prevent crimes against children by increasing investigatory tools, criminal penalties, and resources and by extending existing laws; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, we have all been devastated by the repeated news flashes of violent crimes being committed against children across the Nation. In June 2002, Elizabeth Smart, a 14 year old from my home State of Utah was kidnapped at gun point from her home in Salt Lake City. Just this past week, the entire Nation rejoiced with the Smart family after Elizabeth was found alive and reunited with her loved ones.

Five year old Samantha Runnion was not so lucky. Just one month after Elizabeth Smart's abduction, Samantha was kidnapped while playing with a neighborhood friend down the street from her home in Stanton, CA. The following day, her body was found along a highway, nearly 50 miles from her home. California authorities have charged Alejandro Avila with Runnion's abduction, sexual assault and murder. Reportedly, Avila was acquitted two years ago of molesting two young girls under the age of 14.

Elizabeth Smart and Samantha Runnion are just two, among many, recent child victims. The list of tragic cases involving minor victims goes on and on.

These horrific incidents illustrate the need for comprehensive legislation—at both the State and national level—to protect our children. We need to ensure that federal and state law enforcement officers have all the tools and resources they need to find, prosecute, and punish those who commit crimes against our youth.

Today, I rise to reintroduce the ''Comprehensive Child Protection Act of 2003'' which enhances existing laws, investigative tools, criminal penalties and child crime resources in a variety of ways. I introduced this important bill with Senator FEINSTEIN last year, but it failed to go anywhere. My unwavering commitment to this issue compels me to introduce it again this year. Let me elaborate on the Act's specific provisions.

By broadening existing laws, the Act enhances the ability of child victims to pursue and prevail in criminal proceedings against their predators.

First, the Act extends the statute of limitations period that applies to offenses involving the sexual or physical abuse of children under 18 years of age. Current law permits such cases to be brought until the victim reaches the age of 25 years. This amendment will allow meritorious cases of child sexual and physical abuse to be brought up until the date the minor reaches the age of 35 years.

It is well-documented that child abuse victims often do not come forward until years after the abuse occurred. Victims fail to come forward because they fear their disclosures will lead to further humiliation, shame, and even ostracism. Abusers should not benefit from the lasting psychological harms they have inflicted on innocent children.

I believe that there should rarely, if ever, be a time when we say to a victim who has suffered as a child at the hands of an abuser: you have identified your abuser; you have proven the crime; yet the abuser will remain free because you, the victim, waited to long to come forward. Our criminal justice system should be ready to adjudicate all meritorious claims of child abuse. This amendment is meant to recognize that the arm of the law should be long in the prosecution of crimes of this heinous nature.

Second, the Act amends an existing Federal evidentiary rule, Federal Rule of Evidence 414, to permit the admission into evidence of prior offenses involving child molestation, or the possession of sexually explicit materials containing actual or apparent minors. The current evidentiary rule permits such evidence to be admitted only where the victim was under 14 years of age. This amendment extends the rule to apply to any minor—any victim who was under 18 years of age at the time the offense was committed.

In addition, the amendment makes clear that even where an individual possesses what may be virtual, as opposed to actual, child pornography, and therefore, may have a valid defense against prosecution in light of the Supreme Court's recent decision in Ashcroft v. Free Speech Coalition, 122 S. Ct. 1389 (2002), such evidence is nonetheless admissible under Rule 414. Like the possession of actual child pornography, the possession of virtual child pornography is highly probative evidence that should be admissible in a case involving child molestation or exploitation.

Third, the Act also limits the scope of the common law marital privileges by making them inapplicable in a criminal child abuse case in which the abuser or his or her spouse invokes a privilege to avoid testifying. Where a child abuser is charged with a crime against the child of either spouse, or a child under the custody or control of either spouse, neither the abuser nor his or her spouse should be permitted a marital privilege to avoid providing critical evidence.

The marital privileges exist because we in society believe that forcing a person to testify against his or her spouse, or permitting a spouse to testify about confidential marital communications, may jeopardize a marriage. While we value trusting, harmonious marriages, our societal interest in the proper administration of justice far exceeds our interest in preserving marital harmony where a spouse has chosen a vulnerable, defenseless child in the home as his or her victim. In my view, it is more important to prosecute and punish child abusers than it is to minimize the potential risk to the life of a marriage in which child abuse is occurring.

The Act increases the investigative tools available to law enforcement agencies in several significant ways.

First, the Act amends the DNA Analysis and Backlog Elimination Act by increasing the categories of offenses that are included in the database of convicted offender DNA profiles, the Combined DNA Index System, CODIS. Without question, DNA—which is unique to each individual and maintains its evidentiary integrity for long periods of time—is a valuable investigatory tool. Time and again DNA evidence has aided in solving difficult criminal cases by linking suspects to crimes and by eliminating others.

This Act expands the class of offenses that are included in CODIS by adding all federal felony offenses to the database. Currently, the DNA Analysis and Backlog Elimination Act includes only select Federal offenses. The successful experiences of approximately 19 States, including Utah, which currently authorize the collection of DNA samples for all felony offenses illustrate the need for this extension. These States have solved numerous crimes where DNA has been found—frequently based on an offender's conviction for a nonviolent offense—such as burglary, theft or a narcotics offense.

Remarkably, not all States currently authorize the collection of DNA samples from all types of child offenders. Thus, the Act also expands the definition of qualifying offense to include all state offenses against children, such as those involving child kidnapping or abuse. This expansion will increase law enforcement's ability to solve such crimes where DNA evidence is found.

Second, the Act extends the Federal wiretap statute by adding sex trafficking, sexual abuse, exploitation, and other sex-related offenses as predicate offenses to the statute. As we all know, the Internet is becoming an increasingly popular means by which sexual predators make contact with child victims. Although predators typically initiate a relationship online, they ultimately seek to make personal contact with the child—both over the telephone and through face to face meetings. But as the law exists today, investigators are restricted in their ability to investigate such predators. This provision will enable investigators, who meet the statutory requirements of the Federal wiretap statute, to obtain court authorization to monitor such communications. This amendment will not only aid investigators in obtaining evidence of these crimes, it will also help

stop these crimes before a sexual predator makes contact with a child.

To obtain a wiretap, law enforcement authorities will still need to meet the strict statutory guidelines of the wiretap statute and obtain authorization from a court. Thus, the legislation will not undermine the legitimate expectations of privacy of law-abiding Americans. This expanded tool will be particularly useful to investigators who track sexual predators and child pornographers.

The Act also strengthens criminal penalties by extending the supervised release period that applies to certain offenders, increasing the maximum penalties that apply to offenses involving transportation for illegal sexual activity, and directing the United States Sentencing Commission to review the guidelines that apply to criminal offenses with which child predators are frequently charged to determine whether they are sufficiently severe.

The Act grants Federal judges the discretion to impose up to lifetime periods of supervised release for individuals who are convicted of sexual abuse, sexual exploitation, transportation for illegal sexual activity, or sex trafficking offenses. Under current Federal law, a judge can impose no more than 5 years of supervised release for a serious felony, and no more than 3 years for a lesser categorized offense. This amendment to the general supervised release statute will not require judges to impose a period of supervised release longer than 5 years; it will simply authorize them to do so where a judge sees fit based on the nature and circumstances of the case.

In my view, if there is any class of offenders on which our criminal justice system should keep a close eye, it is sexual predators. It is well documented that sex offenders are more likely than other violent criminals to commit future crimes. And if there is any class of victims we should seek to protect from repeat offenders, it is those who have been sexually assaulted. They suffer tremendous physical, emotional and psychological injuries. By ensuring that egregious sexual offenders are supervised for longer periods of time, we will increase the chance that they will be deterred from and punished for future criminal acts.

The Act increases the maximum penalties that apply to certain offenses, including sexual offenses that involve the trafficking of children and transportation. Stiffer penalties are needed to punish and deter individuals who commit such offenses.

The Act also directs the United States Sentencing Commission to review the sentencing guidelines that apply to various offenses that apply to kidnappers, sexual abusers and exploiters, to ensure that Federal sentences are sufficiently severe where aggravating circumstances exist, such as where the victim was abducted, injured, killed, or abused by more than one person.

In a number of significant ways, the Act enhances the resources that are available to investigate and prosecute crimes against children.

First, the Act directs the Attorney General to appoint a Deputy Assistant Attorney General to oversee a new section at the Department of Justice designated to focus solely on crimes against children. Among other things, the new section will be tasked with prosecuting crimes against children, providing guidance and assistance to Federal, State, and local law enforcement agencies and personnel who handle such cases, coordinating efforts with international law enforcement agencies to combat crimes against children, and acting as a liaison with the legislative and judicial branches of government to ensure that adequate attention and resources are focused on protecting our children from predators of all types.

In addition, the Act tasks the new Crimes Against Children section to create an Internet site that consolidates sex offender information which States currently disclose under the Federal reporting act. The Act also direct States that have not developed Internet sites to do so. The creation of a national Internet site will enable concerned citizens to find in one, easily accessible place, critical information about sexual predators.

Currently, all 50 States have registration statutes that require sex offenders to register and to share information with the United States Attorney General through the Federal Bureau of Investigation, and over 30 States make offender information available to the public on the Internet. A national Internet site will enhance the public's ability to find and access information that is already available in the public record, and will protect citizens in States where sex offenders move to try to avoid detection of their past criminal acts. In short, the national Internet site will provide parents and other concerned citizens with essential information about the whereabouts and backgrounds of child abusers, so they can take all necessary steps to protect our Nation's children from harm's way.

The Act also increases resources and funding for the Federal Bureau of Investigation. The recent series of tragic events involving child victims has convinced me that we need to take a more proactive approach to prevent, deter and prosecute child predators of all types—abusers, molesters, pornographers and traffickers. And at the same time, we need to provide our children, the vulnerable victims of such predators, with the support systems they need to recover fully from such horrendous crimes and to assist law enforcement in effectively investigating and prosecuting these crimes.

To this end, the Act directs the FBI to establish a National Crimes Against Children Response Center whose primary mission will be to develop a comprehensive and rapid response plan to reported crimes involving the victimization of children. While the National Response Center is to be established by the FBI, in consultation with the Deputy Assistant Attorney General for the Crimes Against Children Office, it will integrate the resources and expertise of other Federal, State, and local law enforcement agencies, as well as other child serving professionals. By creating and training rapid response teams comprised of federal, state and local prosecutors, investigators, victim witness specialists, mental health and other child serving professionals, the Center will greatly enhance our national response and prevention efforts. The combination of valuable expertise and resources provided by such multi-jurisdictional and multi-disciplinary partnerships will increase the likelihood that law enforcement authorities will successfully identify, prosecute and punish child predators, and that child serving professionals will provide child victims with much needed support.

The ''Comprehensive Child Protection Act of 2003'' will enhance our ability to combat crimes against children, but it is by no means an end. Congress needs to continue to explore additional ways in which we can improve our ability on a national level to protect our children. Our children fall victim to many of the same crimes we face as adults, and they are also subject to crimes that are specific to childhood, like child abuse and neglect. The effects of such heinous crimes are devastating and often lead to an intergenerational cycle of violence and abuse.

I want to do all I can to ensure that we devote the same intensity of purpose to crimes committed against children, as we do to other serious criminal offenses, such as those involving terrorism. We have no greater resource than our children. I invite the Department of Justice, the Federal Bureau of Investigation and other non governmental entities and professionals who are charged with protecting our children to work with me to improve our Federal laws and to assist States in doing the same.

Mr. DEWINE. Mr. President, I rise today with my colleague from Utah, Senator HATCH, to reintroduce the ''Comprehensive Child Protection Act of 2003''—a bill to help protect our Nation's children from child molestation and other forms of abuse. Senator HATCH and I introduced this bill for the first time on September 10, 2002.

Sexual abuse of children is a pervasive and extremely troubling problem in the United States. I learned that over 25 years ago when I was serving as the County Prosecutor in Greene County, Ohio. I saw what this kind of abuse does to innocent, helpless children and how pervasive the crimes are in our communities. In fact, according to the Congressional Research Service, one of every three girls and one of every seven boys will be sexually abused before they reach the age of 18.

Our local police and prosecutors are on the front line in the fight against these criminals, and they deserve credit and our thanks for their hard work. For example, in Greene County recently, a number of child pornographers were identified and prosecuted when local law enforcement carried out a successful Internet sting operation.

Despite successes like this, however, the data suggest that law enforcement is fighting an uphill battle. In 2001 alone, there were over 5,400 registered sex offenders living in my home State of Ohio—an increase of 319 percent over 1998. Equally troubling, many child molesters prey upon dozens of victims before they are reported to law enforcement. Some evade detection for so long because many children never report the abuse. According to the Bureau of Justice Statistics, between 60 percent and 80 percent of child molestations and 69 percent of sexual assaults are never reported to the police. And, according to the Congressional Research Service, of reported sexual assaults, 71 percent of the victims are children.

For these reasons, it is vitally important that Congress do everything in its power to support law enforcement in its efforts to protect our nation's most vulnerable citizens. Enacting the ''Comprehensive Child Protection Act of 2003'' would be a step in the right direction. By enacting this measure, we would help protect our children from sexual predators, pornographers, and others who abuse children. Among its major provisions, this legislation would: 1. Direct the FBI to establish a new center that creates and trains ''rapid response teams'' (composed of prosecutors, investigators, and others) to respond promptly to reported crimes against children; 2. Establish a national Internet site that would make sex offender information available to the public in one, easily accessible place. Currently, about 30 states make offender information available to the public online; 3. Authorize the collection of DNA samples from registered sex offenders and the inclusion of these DNA samples in the Combined DNA Index System, or ''CODIS;'' 4. Permit the prosecution of child abuse offenses until a victim reaches the age of 35 (as opposed to the age of 25 under current law). This provision recognizes that victims of such crimes often do not come forward until years after the abuse, out of shame or a fear of further humiliation; 5. Make it easier for investigators to track sexual predators and child pornographers and make it easier to prosecute criminal child abuse/molestation cases; 6. Create a new section at the Department of Justice to focus solely on crimes against children; and 7. Stiffen penalties for sex-related offenses involving children.

This is a good bill—a bill that would help ensure that our children are protected from some of the most heinous of criminals. It is a bill that would increase the punishment for those criminals. And, it is a bill that, quite simply, is the right thing to do. I encourage my colleagues to join us in co-sponsoring this important measure.

Mr. GRASSLEY. Mr. President, today, I again rise in support of the Comprehensive Child Protection Act. I am proud to be standing with Senator HATCH as a co-sponsor of a bill that represents one of the most comprehensive pieces of legislation ever drafted to protect children. The miracle that Elizabeth Smart was found safe and sound, reminds us of how important this bill is.

As a former chairman of the Youth Violence Subcommittee and Ranking Republican on the Subcommittee on Crime and Drugs during the 107th Congress, I have been greatly concerned with the increase in reports of child abductions and murders, so I am glad to be a part of this effort to address this growing problem. In my tenure on the Judiciary Committee, I have long fought for our Nation's children, and have ardently supported laws that bring them and their families greater protection.

This legislation comes at a critical time because we are hearing more and more about children being taken from their homes or schools and abused, or worse, murdered. Our children are a gift to us, are our national treasure, and are our future. We must do all that we can to protect these innocents and give law enforcement every tool possible to ferret out the criminals who would do our children harm. With this legislation, we will be ensuring a greater measure of protection for our children. The miracle that Elizabeth Smart was found safe and sound, reminds us of how important this bill is.

The bill does many important things. First, it helps law enforcement respond immediately to incidents of child abduction, because, as we've seen with the Amber Alert system, time is critical in any abduction case to thwart further injury or harm. The bill creates a National Crimes Against Children Response Center at the FBI that will integrate the resources and expertise of all Federal, State and local law enforcement sources to provide a rapid response for crimes involving child victims. The bill also helps law enforcement by making it possible to get wire taps for suspected sex trafficking and exploitation offenses, and will require that all Federal child sex crimes offenders have their DNA added to the national DNA registry. So the bill will help to centralize information about criminals and crimes, and makes the job of the criminal investigator easier and more accurate through wiretaps and DNA evidence.

The bill also creates a website registry for convicted child sexual offenders so that parents, neighbors, and police know who in their communities is a convicted child predator. This website will supplement registries in all 50 States. This important tool will help families make better and fully informed decisions about their children's safety, and will greatly aid law enforcement's response to reports of child abductions and other offenses against children. The bill also gives new tools to prosecutors and the courts. It extends the statute of limitations for prosecuting child offenders, allows prosecutors to introduce evidence of past child sex crimes in sentencing hearings, removes the so-called ''spousal privilege'' so that a spouse can't stand silent in the prosecution of the other spouse for child sexual abuse, and increases the maximum sentences and probation periods for child sex offenders. These important tools will make our communities safer by helping to rid them of child predators, and by keeping a tight leash on predators when they get released from prison.

So this bill helps the public know about sexual predators in their communities, improves the nation's ability to respond to child abduction reports, and aids criminal investigators and prosecutors in their efforts to protect the public by identifying and locking-up child predators. I ask my fellow Senators to support this important bill.

By Mr. LEVIN (for himself, Mr. JEFFORDS, Ms. COLLINS, Mr. REED, Mr. KENNEDY, Mr. LEAHY, Mrs. CLINTON, Mr. SCHUMER, Mr. SARBANES, Mr. BAUCUS, Mr. LIEBERMAN, and Mr. KERRY):

S. 645. A bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEVIN. Mr. President, I am introducing today along with Senators COLLINS, JEFFORDS and others the Brownfields Redevelopment Assistance Act of 2003. As a resident of Michigan I am familiar with the obstacles facing local communities in their attempts to return brownfields sites to productive economic uses. As co-chair of the Senate Smart Growth Task Force I understand the national economic importance of these efforts.

Brownfields are abandoned, idled or under-used industrial and commercial properties where expansion or redevelopment is hindered by real or perceived environmental contamination. More than 450,000 of these sites taint our nation's landscape, inhibiting economic development and posing a threat to human health and the environment. Undeveloped, or underdeveloped, brownfields sites blight communities forcing development onto greenfields where they exacerbate the problems associated with urban sprawl. If brownfields were instead redeveloped they could offer new opportunities for business, housing and open space.

Brownfields redevelopment is a fiscally-sound way to bring investment back to neglected neighborhoods, clean-up the environment, maximize use of existing infrastructure, create jobs and relieve development pressure on our urban fringe and farmlands. My

home state of Michigan is a national leader in brownfields redevelopment. For example, the City of Traverse City managed to leverage $662,000 of government brownfields funding to turn a former gas station and junk yard site into a $20 million private investment in a retail, office and parking facility called Radio Center. The City of Ludington used brownfields funding to spur the development of a multi-use retail/office/condominium complex adjacent to a marina. These are only two examples of the many successful efforts by local communities to leverage Federal, State and local money to harness the resources and expertise of the private sector in economic development efforts. The Brownfields Redevelopment Assistance Act of 2003 would open up the possibilities of redevelopment to numerous other communities nationwide.

The Brownfields Redevelopment Assistance Act expands the Department of Commerce's Economic Development Administration, EDA, initiatives to assist communities with brownfields redevelopment. The bill authorizes $60 million annually for five years for brownfields redevelopment. Grant money will be used for purposes including collaborative economic development planning, eco-industrial development and revolving loan funds. By encouraging development in existing communities the brownfields program will strengthen local economies, preserve precious resources and make best use of existing infrastructure. This bill for the first time would provide specific authority and funding to the EDA for these initiatives. The new projects authorized by the bill would complement the existing and successful brownfields efforts of the Environmental Protection Agency, the Department of Commerce and the Department of Housing and Urban Development.

The U.S. Conference of Mayors estimates that redevelopment of all of the brownfields nationwide could generate more than 550,000 additional jobs that would benefit our many economically struggling communities. Cities and States could see as much as $2.4 billion in new tax revenues. The Economic Development Administration has helped distressed communities attract investment, create jobs and strengthen their economies for the last forty years. This bill will build on EDA's success in helping localities improve their infrastructure and help them redevelop their brownfields sites. Communities nationwide have expressed interest in brownfields redevelopment but lack the financial resources necessary to accomplish their goals. This bill is an excellent example of how the Federal Government can be supportive of local economic development projects. The Brownfield Redevelopment Assistance Act of 2003 advances the goals of the smart growth movement by helping create healthier communities and strengthens the economy through federally supportive, locally driven initiatives.

Many organizations support these bills, including the American Institute of Architects, American Planning Association, American Society of Civil Engineers, Enterprise Institute, National Business Incubation Association, National Association of Counties, National Association of Regional Councils, National League of Cities, US Conference of Mayors, National Congress for Community Economic Development, Smart Growth America and others. I ask unanimous consent to have letters endorsing this bill printed, the RECORD. I also ask unanimous consent that the text of the bill be printed in the RECORD.

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

THE ENTERPRISE FOUNDATION,
Columbia, MD, March 17, 2003.

Hon. CARL LEVIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEVIN: The Enterprise Foundation commends you for joining Senator Jeffords in introducing the ''Brownfields Redevelopment Assistance Act.'' Enterprise strongly supports this bill.

Enterprise is a national nonprofit organization that raises resources and channels them to grassroots groups at the local level for affordable housing, economic development and other community revitalization initiatives in distressed urban and rural neighborhoods nationwide. Central to our mission is generating investment in areas suffering from blight, neglect and disinvestment. Brownfields are prime examples of such areas.

Enterprise is engaged in several large-scale brownfield redevelopment efforts around the country. Targeted incentives such as your bill provides would enable Enterprise and others in the private sector to convert more brownfields to productive uses.

By spurring brownfields redevelopment, your bill would direct limited public resources to places that already benefit from existing infrastructure and promote economic investment where it is needed most. The bill epitomizes smart growth and comprehensive community development principles.

Thank you for your leadership on this important issue.

Sincerely,

F. BARTON HARVEY III,
Chairman of the Board
and Chief Executive Officer.

SMART GROWTH AMERICA,
Washington, DC, March 17, 2003.

Hon. CARL LEVIN,
Russell Senate Office Building,
Washington, DC.

Hon. SUSAN COLLINS,
Russell Senate Office Building,
Washington, DC.

Hon. JIM JEFFORDS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATORS LEVIN, JEFFORDS and COLLINS: Smart Growth America would like to thank you for your leadership on the introduction the Brownfields Redevelopment Assistance Act of 2003. As advocates of smart growth—growth that revitalizes neighborhoods, supports affordable housing, promotes transportation choice, and preserves open space and farmland—we regard brownfields redevelopment as a top priority.

With an estimated 450,000 nationwide, brownfields pose a major barrier to reinvestment in many communities. These parcels are not simply gaps, they are an active blight, pulling down surrounding property values and driving development and investment further away from existing infrastructure.

The Brownfields Redevelopment Assistance Act would supply an additional tool for local communities to return these sites to productive use by providing the Economic Development Administration (EDA) with the authority and dedicated funding to support brownfield redevelopment projects. Specifically, the legislation would authorize the EDA to administer a $60 million per year grant program for targeted assistance to projects that redevelop brownfield sites and promote eco-industrial development.

We believe the Brownfields Redevelopment Assistance will assist communities nationwide in encouraging economic development, removing environmental and public health hazards, promoting neighborhood revitalization, and preserving open space. We support your efforts and look forward to working with you to pass this important legislation.

Sincerely,

DON CHEN,
Executive Director.

NATIONAL CONGRESS FOR
COMMUNITY ECONOMIC DEVELOPMENT,
Washington, DC, March 17, 2003.

Hon. CARL LEVIN,
U.S. Senate, Russell Building,
Washington, DC.

DEAR SENATOR LEVIN: The National Congress for Community Economic Development thanks you for re-introducing The Brownfields Redevelopment Assistance Act of 2003.

We support the efforts of HUD, EPA, and the other agencies that are part of the Brownfields National Partnership. Moving these lands into productive reuse, reducing sprawl, and increasing the tax base will help local economies and improve the quality of life.

As the trade association of America's 3,600 community development corporations, we believe that this bill would help in our efforts to revitalize distressed urban and rural communities.

Sincerely,

CAROL WAYMAN,
Director of Policy.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, March 14, 2003.

Hon. CARL LEVIN,
Russell Senate Building,
Washington, DC.

DEAR SENATOR LEVIN: On behalf of the nation's elected county officials, I am writing in support of the Brownfields Redevelopment Assistance Act of 2003. This legislation is important to the redevelopment efforts of brownfields sites in communities.

The National Association of Counties (NACo) has been longtime supporter of brownfield site revitalization. After restoring abandoned properties to active use, redeveloped properties contribute to a community's overall economic vitality through business attraction, job creation, and the enhancement of the local tax base. Also, NACo is a strong advocate for the work of the Economic Development Administration, and supports additional federal economic development efforts by the agency.

In particular, NACo appreciates the bill's focus on distressed communities experiencing high levels of unemployment or underemployment, as well as population loss and infrastructure deterioration. Additional federal resources are needed to leverage with local economic development efforts to help alleviate economic distress in many communities across the country.

NACo applauds your efforts towards the restoration and redevelopment of brownfields sites, and offers its full support of this important legislation. Please feel free to contact Cassandra Matthews or Julie Ufner, NACo Associate Legislative Directors, at (202) 393–6226, if you need further information or assistance.

Thank you for your leadership on this matter

Sincerely,

LARRY NAAKE,
Executive Director.

AMERICAN SOCIETY
OF CIVIL ENGINEERS,
Washington, DC, March 14, 2003.

Hon. CARL LEVIN,
Russell Building,
Washington, DC.

DEAR SENATOR LEVIN: I am writing on behalf of the 130,000 members of the American Society of Civil Engineers (ASCE) to let you know of our support for your proposed legislation to expand the brownfields program enacted in 2002 by providing federal assistance for distressed communities under the Public Works and Economic Development Act.

As you already realize, the restoration of brownfields is important to the environmental and industrial health of this nation through the revitalization of many of our blighted areas. In 1995, the General Accounting Office estimated that there were more than 450,000 brownfield properties across America. In 2000, the U.S. Conference of Mayors calculated that redeveloped brownfields could generate 550,000 additional jobs and up to $2.4 billion in new tax revenue for cities nationwide.

ASCE believes that brownfields restoration, properly carried out, limits urban sprawl thereby achieving a balance between economic development, the rights of individual property owners, the public interest, social wants and a healthy environment. Revitalized brownfields reduce the demand for underdeveloped land. As devastated urban land is returned to productive use, the pressure to develop distant open spaces is lessened, thereby mitigating the undesirable effects of sprawl, and such as traffic congestion, and preserving culturally and ecologically valuable land.

If ASCE can assist you in any way to enact this important legislation, please do not hesitate to contact Brian Pallasch at (202) 326–5140 or Michael Charles at (202) 326–5126 in our Washington Office.

Sincerely yours,

THOMAS L. JACKSON,
President.

NATIONAL LEAGUE OF CITIES,
Washington, DC, March 18, 2003.

Hon. CARL LEVIN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEVIN: On behalf of over 18,000 municipalities across the country represented by the National League of Cities, I am writing to express our support for the Brownfield Redevelopment Assistance Act of 2003. The benefits of returning contaminated parcels of land to productive use for commerce and industry are extensive. If environmental conditions are improved, brownfields have the potential to contribute to the economic revitalization of many cities. For this reason, the National League of Cities calls on the federal government to implement a policy that allows these sites to serve a viable economic purpose, while ensuring the public's health is maintained.

We believe that eco-industrial development, restoring the employment and tax bases, and bringing new investment to distressed communities are necessary and will move forward with the enactment of your brownfields legislation. We support your efforts to provide the Economic Development Administration with funding and tools that will be vital to creating economic redevelopment in economically distressed communities across the nation.

We look forward to working with you to build bi-partisan support for the Brownfield Redevelopment Act of 2003.

Very truly yours,

DONALD J. BORUT,
Executive Director.

S. 645

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 ''Brownfields Redevelopment Assistance Act of 2003''.

SEC. 2. PURPOSES.

Consistent with section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121), the purposes of this Act are—

(1) to provide targeted assistance, including planning assistance, for projects that promote—

(A) the redevelopment, restoration, and economic recovery of brownfield sites; and

(B) eco-industrial development; and

(2) through such assistance, to further the goals of restoring the employment and tax bases of, and bringing new income and private investment to, distressed communities that have not participated fully in the economic growth of the United States because of a lack of an adequate private sector tax base to support essential public services and facilities.

SEC. 3. DEFINITIONS.

Section 3 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122) is amended—

(1) by redesignating paragraphs (1), (2), and (3) through (10) as paragraphs (2), (3), and (5) through (12), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

''(1) BROWNFIELD SITE.—The term 'brownfield site' means a brownfield site (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)) with respect to which an entity has received, or is eligible to receive, funding under section 104(k) of that Act (42 U.S.C. 9604(k)) for site characterization, assessment, or remediation.'';

(3) by inserting after paragraph (3) (as redesignated by paragraph (1)) the following:

''(4) ECO-INDUSTRIAL DEVELOPMENT.—The term 'eco-industrial development' means development conducted in a manner in which businesses cooperate with each other and the local community to efficiently share resources (such as information, materials, water, energy infrastructure, and natural habitat) with the goals of—

''(A) economic gains;

''(B) improved environmental quality; and

''(C) equitable enhancement of human resources in businesses and local communities.''; and

(4) by adding at the end the following:

''(13) UNUSED LAND.—The term 'unused land' means any publicly-owned or privately-owned unused, underused, or abandoned land that is not contributing to the quality of life or economic well-being of the community in which the land is located.''.

SEC. 4. COORDINATION.

Section 103 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by inserting ''(a) COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.—'' before ''The Secretary''; and

(2) by adding at the end the following:

''(b) BROWNFIELD SITE REDEVELOPMENT.—The Secretary shall coordinate activities relating to the redevelopment of brownfield sites and the promotion of eco-industrial development under this Act with other Federal agencies, States, local governments, consortia of local governments, Indian tribes, nonprofit organizations, and public-private partnerships.''.

SEC. 5. GRANTS FOR BROWNFIELD SITE REDEVELOPMENT.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) is amended—

(1) by redesignating sections 210 through 213 as sections 211 through 214, respectively; and

(2) by inserting after section 209 the following:

''SEC. 210. GRANTS FOR BROWNFIELD SITE REDEVELOPMENT.

''(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants for projects to alleviate or prevent conditions of excessive unemployment, underemployment, blight, and infrastructure deterioration associated with brownfield sites, including projects consisting of—

''(1) the development of public facilities;

''(2) the development of public services;

''(3) business development (including funding of a revolving loan fund);

''(4) planning;

''(5) technical assistance;

''(6) training; and

''(7) the purchase of environmental insurance with respect to an activity described in any of paragraphs (1) through (3).

''(b) CRITERIA FOR GRANTS.—The Secretary may provide a grant for a project under this section only if—

''(1) the Secretary determines that the project will assist the area where the project is or will be located to meet, directly or indirectly, a special need arising from—

''(A) a high level of unemployment or underemployment, or a high proportion of low-income households;

''(B) the existence of blight and infrastructure deterioration;

''(C) dislocations resulting from commercial or industrial restructuring;

''(D) outmigration and population loss, as indicated by—

''(i)(I) depletion of human capital (including young, skilled, or educated populations);

''(II) depletion of financial capital (including firms and investment); or

''(III) a shrinking tax base; and

''(ii) resulting—

''(I) fiscal pressure;

''(II) restricted access to markets; and

''(III) constrained local development potential; or

''(E) the closure or realignment of—

''(i) a military or Department of Energy installation; or

''(ii) any other Federal facility; and

''(2) except in the case of a project consisting of planning or technical assistance—

''(A) the Secretary has approved a comprehensive economic development strategy for the area where the project is or will be located; and

''(B) the project is consistent with the comprehensive economic development strategy.

''(c) PARTICULAR COMMUNITY ASSISTANCE.—Assistance under this section may include assistance provided for activities identified by a community, the economy of which is injured by the existence of 1 or more brownfield sites, to assist the community in—

''(1) revitalizing affected areas by—

''(A) diversifying the economy of the community; or

''(B) carrying out industrial or commercial (including mixed use) redevelopment, or eco-industrial development, projects on brownfield sites;

''(2) carrying out development that conserves land by—

''(A) reusing existing facilities and infrastructure;

''(B) reclaiming unused land and abandoned buildings; or

''(C) promoting eco-industrial development, and environmentally responsible development, of brownfield sites; or

''(3) carrying out a collaborative economic development planning process, developed with broad-based and diverse community participation, that addresses the economic repercussions and opportunities posed by the existence of brownfield sites in an area.

''(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY ELIGIBLE RECIPIENT.—

''(1) IN GENERAL.—Subject to paragraph (2), an eligible recipient of a grant under this section may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

''(2) LIMITATION.—Under paragraph (1), an eligible recipient may not provide any grant to a private for-profit entity.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. prec. 3121) is amended by striking the items relating to sections 210 through 213 and inserting the following:

''Sec. 210. Grants for brownfield site redevelopment.
''Sec. 211. Changed project circumstances.
''Sec. 212. Use of funds in projects constructed under projected cost.
''Sec. 213. Reports by recipients.
''Sec. 214. Prohibition on use of funds for attorney's and consultant's fees.''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231 et seq.) is amended by adding at the end the following:

''SEC. 704. AUTHORIZATION OF APPROPRIATIONS FOR BROWNFIELD SITE REDEVELOPMENT.

''(a) IN GENERAL.—In addition to amounts made available under section 701, there is authorized to be appropriated to carry out section 210 $60,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.

''(b) FEDERAL SHARE.—Notwithstanding section 204, subject to section 205, the Federal share of the cost of activities funded with amounts made available under subsection (a) shall be not more than 75 percent.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. prec. 3121) is amended by adding at the end of the items relating to title VII the following:

''Sec. 704. Authorization of appropriations for brownfield site redevelopment.''.

Ms. COLLINS. Mr. President, the textile mills and tanneries of Maine helped fuel our country's economic growth. But as these industries closed, brownfields replaced once vibrant factories. In many communities across Maine these sites remain a legacy of our industrial history.

Left undeveloped, brownfields pose threats to the public health, environmental quality and economic strength of our communities. But redeveloped, these sites offer opportunities for new industries, job growth and economic development. I am pleased to join Senators LEVIN and JEFFORDS in introducing the Brownfields Redevelopment Assistance Act. This legislation will provide communities with economic development resources to redevelop brownfields and return them to productive uses.

The legislation we are introducing today would provide EDA with increased funding flexibility to help States, local communities, Indian tribes and nonprofit organizations return brownfield sites to productive use. The bill authorizes $60 million each year for five years for brownfields redevelopment. This funding authorized by this bill will result in hundreds of millions of dollars worth of economic benefits for States and local communities through the leveraging of local and State funds and private investments.

The bill gives EDA the authority to provide grants for brownfield redevelopment projects, including: development of public facilities and public services; business development; activities to help communities diversify their economies; and collaborative economic development planning. This will help States and communities facilitate effective economic development planning for brownfield reuse; develop infrastructure necessary to prepare sites for re-entry into the market; and, provide the capital necessary to support new business development.

The decline of the New England textile industry led to the closure of many textile mills throughout the region, including the Bates Mill in the City of Lewiston, ME. The Bates Mill was once the State's largest employer providing more than 5,000 jobs. Economic decline and layoffs left the residents of Lewiston with large abandoned mill buildings that have been a challenge to redevelop. As a small city of 36,000 people, continued support for redeveloping brownfields located in the heart of downtown is critical to the city's future economic vitality. In 1998, the city received a $200,000 grant from the Environmental Protection Agency to help facilitate the cleanup and redevelopment of the one million square foot mill complex. Today, the City has redeveloped about one-third of the mill and created 1,000 new jobs. The City estimates that it will require $54 million to develop the remaining buildings in the Bates Mill Complex. The economic development resources provided in the Brownfields Redevelopment Assistance Act will help Lewiston and other communities across the nation rebuild their communities and create new economic opportunity.

Brownfields redevelopment is a fiscally responsible strategy for strengthening local economies and reusing existing infrastructure while protecting open space. We recycle cans, bottles and newspapers now we must try harder to recycle our land. I am proud to be an original co-sponsor of the bill to aid in this effort.

By CORZINE (for himself, Mr. DASCHLE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. JOHNSON, and Mr. SARBANES):

S. 646. A bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce a very important piece of legislation, the Medicare Mental Health Modernization Act of 2003. I introduce this bill today, along with Representative PETE STARK (D–CA), in fond memory of our former colleague and friend, the late Senator Paul Wellstone. Paul was a crusader in many ways and for many causes; however, we will always remember his commitment to ensuring that all Americans have meaningful and equitable access to mental health treatment.

It is because of Paul's efforts that so many Americans, including many in the Congress, have rallied around the call for parity in the treatment of mental illness. Many of us are all too familiar with the stigma that still surrounds mental illness and the disparities in accessing treatment that permeate the private health insurance market. What many of us do not realize is that these inequities also exist in the Medicare program.

Our Nation's Medicare beneficiaries—our elderly and disabled population—have limited access to mental health services. Medicare restricts the types of mental health services available to beneficiaries and the types of providers who are allowed to offer such care. It also charges higher copayments for mental health services than it does for all other health care. In order to receive mental health care, seniors and the disabled must pay 50 percent of the cost of a visit to their mental health specialist, as opposed to the 20 percent that they pay for other services. Medicare also limits the number of days a beneficiary can receive mental health care in a hospital setting to 190 days over an individual's lifetime.

As we talk about modernizing the Medicare program we must address this problem. The need is glaring. Almost 20 percent of Americans over age 65 have a serious mental disorder. They suffer from depression, Alzheimer's disease, dementia, anxiety, late-life schizophrenia and, all too often, substance abuse. These are serious illnesses that must be treated. Unfortunately, they are often unidentified by primary care physicians, or the appropriate services are simply out of reach. Americans age 65 and older have the highest rate of suicide of any other population in the United States. An alarming 70 percent of elderly suicide victims have visited

their primary care doctor in the month prior to committing suicide.

Medicare is also the primary source of health insurance for millions of non-elderly disabled. More than 20 percent of these individuals suffer from mental illness and/or addiction. This very needy population faces the same discrimination in their mental health coverage.

As our population ages, the burden of mental illness on seniors, their families, and the health care system will only continue to increase. Experts estimate that by the year 2030, 15 million people over 65 will have psychiatric disorders, with the number of individuals suffering from Alzheimer's disease doubling. If we do not reform the Medicare program to provide greater access to detection and treatment of mental illness, the cost of not treating these diseases will rapidly escalate. Without the appropriate outpatient mental health services, too many of our seniors are forced into nursing homes and hospitals. If we truly want to modernize Medicare and make it more efficient, we must provide access to these services. Not only will they likely reduce costs in the long-term, but they will also increase Medicare beneficiaries' quality of life.

The Medicare Mental Health Modernization Act takes critical steps to address these issues. First, the bill reduces the 50 percent copayment for mental health services to 20 percent. The proposed 20 percent copayment is the same as the copayment for all other outpatient services in Medicare. Second, the bill would provide access to intensive residential services for those who are suffering from severe mental illness. This will give people with Alzheimer's disease and other serious mental illness the opportunity to be cared for in their homes or in community-based settings. Third, the bill expands the number of qualified mental health professionals eligible to provide services through the Medicare program. This includes licensed professional mental health counselors, clinical social workers, and marriage and family therapists. This expansion of qualified providers is critical to ensuring that seniors throughout the nation, particularly those in rural areas, are able to receive the services they need.

In closing, I urge all of my colleagues to step forward to support the Medicare Mental Health Modernization Act of 2003. It is time for the Medicare program to stop discriminating against seniors and the disabled who are suffering from mental illness.

By Mr. KENNEDY:

S. 647. A bill to amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes; to the Committee on Armed Services.

Mr. KENNEDY. Mr. President, today I am introducing a bill to close an unfortunate loophole in health insurance coverage for families of Reserve and Guard members who are called up for active duty.

As we face the likelihood of war with Iraq, one hundred and fifty thousand members of the National Guard and the Reserves have been mobilized for service. These soldiers, sailors, marines, and airmen are standing by their country in a time of national emergency. But unless the Congress takes immediate action, too many of the spouses and children of these brave men and women may find the quality of their heath care reduced.

Today's military relies more heavily than ever before on the Reserve and Guard. Currently, over 150,000 National Guard and reserve soldiers, sailors, Marines and airmen have been mobilized. They are spending an average of thirteen times longer on active duty today than compared to a decade ago.

Our men and women in uniform are working and training hard for the serious challenges before them. They are living in the desert, enduring harsh conditions, and contemplating the horrors of the approaching war. At the same time, they must put their lives on hold, dealing with family crises by phone and email. We must do our best to take care of those they have left at home.

During the Vietnam war, only 20 percent of all Army personnel were married. Today over 50 percent of the active military are married. These numbers are even higher in the Guard and Reserves. This service places heavy strain on the families who are left behind to worry and cope with the sudden new demands of running a household alone.

For the Guard and Reservists' families, a recall to active duty brings new bureaucratic challenges. Employers are not required to keep paying the health insurance for reservists while they are deployed. Many guardsmen and reservists may not be able to afford to pay for health care for their families while they are away.

If a guardsman or reservist is activated for more than thirty days, their family is eligible to enroll in the TRICARE program. However, during that first month, the family may not have any health insurance. In addition, if their family doctor does not participate in TRICARE, the family must find a new doctor while coping with all the other demands of the service member's absence. A family with a sick child and a father or mother sent off to war should not have to cope with the added burden of giving up the family doctor they trust.

The bill I am introducing will assure continuity of health insurance coverage for families of Reservists and National Guard personnel called to active duty. Under this bill, these families retain the option of private health insurance coverage during the period of active duty, rather than enrolling in TRICARE.

The bill amends the COBRA coverage rules to specify that loss of employment-based coverage due to active-duty allows them to use the COBRA mechanism to retain their health care coverage. The Federal Government will pay the cost of premiums not covered by employers. This assistance will relieve some of the financial burden on families when the service member leaves a more lucrative private sector job to serve in the military. The Federal Government will also pay the cost of continuing family coverage purchased in the individual insurance market, for those who do not have employment-based coverage.

The cost of the modest additional help for the families of our servicemen will be small, since spouses and children who continue to use their private insurance policies will not be using TRICARE medical services that would otherwise be the government's responsibility.

This bill will not change the health care coverage for service members who will continue to receive health care through the military medical system. Nor will it change the health care coverage for active duty family members who retain TRICARE eligibility and receive health care either through the direct care system or TRICARE network.

When Reservists and members of the National Guard are called to active duty in time of international crisis, they are asked to put their lives on the line for their country. The least we can do for them is assure that their families can continue to receive quality health care without interruption during their absence.

I urge my colleagues to move promptly to enact this legislation.

Mr. President, I ask unanimous consent that a letter of support be printed in the RECORD.

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

U.S. SENATE,
Washington, DC March 17, 2003.

Hon. MITCHELL E. DANIELS, Jr.,
Director, Office of Management and Budget, Washington, DC.

DEAR MR. DANIELS: As you prepare the Administration's request for emergency supplemental appropriations, we urge you to consider an important issue facing our National Guard and Reserve Component troops.

Today's military relies more heavily than ever before on these forces. Currently, over 150,000 members of the guard and reserve have been mobilized. They are spending an average of thirteen times longer on active duty than their counterparts a decade ago.

For their families, a recall to active duty brings new bureaucratic challenges. Employers are not required to keep paying for their health insurance coverage while they are deployed, and many of them may not be able to afford to pay for coverage for their families while they are away.

If reservists or guardsmen are activated for more than thirty days, their families are eligible to enroll in the TRICARE program. However, during that first month, the family may not have any health insurance. In addition, their family doctor may not participate in TRICARE, forcing the family to find a

new doctor while coping with all the other demands of the service member's absence.

To address this problem, we are introducing bills to assure continuity of health insurance coverage for families of reservists and National Guard personnel called to active duty. Under this bill, these families will retain the option of private health insurance coverage during the period of active duty, rather than enrolling in TRICARE. This bill will not change the health care coverage for the reservists or guardsmen who will continue to be covered by TRICARE during active military service.

The bill modifies the COBRA continuation-of-coverage rules to specify that loss of employment-based converge due to active-duty is a qualifying event for COBRA, so that they can, if they choose, use the COBRA mechanism to retain their health care coverage. The federal government will pay the cost of premiums not covered by employers, as well as the cost of continuing family coverage purchased in the individual market.

We believe this step is important as part of the overall effort to take care of the families of our men and women in uniform. We urge you to include a proposal to provide continuity of health insurance for reservists and guardsmen in the emergency supplemental.

With respect and appreciation, and we look forward to working with you on this issue.

Sincerely,

EDWARD M. KENNEDY,
United States Senator.
MICHAEL CAPUANO,
United States Representative.

By Mr. REED (for himself, Mr. ENZI, Mr. JOHNSON, Mr. WARNER, Ms. LANDRIEU, Ms. COLLINS, Mr. INOUYE, and Mr. ROBERTS):

S. 648. A bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I am pleased to reintroduce the Pharmacy Education Aid Act along with my colleagues, Senator ENZI, Senator JOHNSON and others. Last year, the Senate recognized and acted to address the growing, nationwide shortage of pharmacists, by creating a demonstration program under the National Health Service Corps whereby pharmacists agree to serve in rural and medically underserved areas in exchange for partial loan repayment. I commend my colleagues for responding in such a strong, bipartisan way to this critically important health care issue. The bill I am introducing today, the Pharmacy Education Aid Act seeks to build on that bipartisan step while taking a multi-faceted approach to the problem of workforce shortages in the pharmacy sector.

The December 2000 Health Resources and Services Administration, HRSA, report, ''The Pharmacist Workforce: A Study of the Supply and Demand for Pharmacists'' concluded that due to the rapid increase in demand for pharmacists and our limited ability to expand the number pharmacy education programs to train more pharmacists, the shortage was unlikely to abate without significant changes to the current system.

Pharmacists represent the third largest and most trusted health professional group in the United States. In 2000, 190,000 pharmacists were in practice. While this figure is expected to grow to 224,500 by 2010, demand for pharmacists is expected to continue to outpace supply.

These shortages, while particularly acute in rural and medically underserved areas, are felt throughout of health care system. A November 2001 GAO report found that, on average, hospitals report 21 percent of their pharmacist positions are currently unfilled. Vacancy rates are even higher in federal health systems, such as the Department of Veterans Affairs, the Department of Defense and the Indian Health Service.

The Pharmacy Education Act seeks to address these chronic shortfalls in the supply and distribution of pharmacists by building upon Title VII of the Public Health Service Act, with particular emphasis on students with the greatest financial need.

In addition to enhancing students' opportunities to pursue an education in pharmacy, the bill also makes available much needed resources to Colleges of Pharmacy to upgrade and expand facilities and laboratory space as well as to recruit and retain talented faculty to educate future generations of pharmacists.

As Congress works to provide a Medicare prescription drug benefit, the need for more pharmacist involvement in health care decision making, including medication therapy management, formulary development and drug utilization review, will be essential to its long-term success. We must address the pharmacist shortage now. As such, I look forward to working with my colleagues towards expeditious consideration and passage of this timely and important legislation.

I ask unanimous consent that a letter of support be printed in the RECORD.

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

February 21, 2003.

Hon. JUDD GREGG, EDWARD KENNEDY, BILLY TAUZIN, JOHN DINGELL, MICHAEL BILIRAKIS, SHERROD BROWN.

The undersigned associations and organizations urge you to ensure Americans continue to have access to comprehensive pharmacy services. During the 107th Congress you recognized how important it is to ensure enough pharmacists are available to care for our nation's citizens, especially the most vulnerable. We were very grateful that the House introduced two bills and the senate passed one bill, all addressing the supply and distribution of pharmacists. We request your support for similar legislation that is soon to be introduced during the 108th Congress. Helping the nation's colleges and schools of pharmacy increase their educational capacity is an important way of assuring access to this critical health care professional.

''The Pharmacist Workforce: A Study of the Supply and Demand for Pharmacists,'' released in December 2000 by the Department of Health and Human Service was just a starting point for raising public awareness of the growing demand for pharmacists. The American Hospital Association released a study in April 2002 that showed vacancy rates for pharmacists in hospitals and health systems exceeded that of nurses. Recent pharmacy workforce reports from North Carolina, Oregon and Washington make it clear that there are imbalances in the supply of pharmacists in rural vs. urban areas. These reports, and others acknowledge that, like the general population, the pharmacist workforce is aging, placing communities at risk of losing access to pharmacy services.

Congress, in some recent Medicare drug benefit proposals, increases the demand for pharmacists by recognizing the benefits they bring to health care delivery. Retrospective drug utilization review, formulary development, medication therapy management, and prescribing protocols are some of the mechanisms included in proposed legislation. All these mechanisms are dependent on or directly involve a pharmacist. A Medicare prescription drug benefit will dramatically increase the number of prescriptions dispensed. As a result, pharmacists will serve an increasingly important role in utilization control and medication therapy management. This will only place additional workforce pressure on a health profession already in high demand.

The President also increases the demand for pharmacists with his proposals to expand access to health care and improve health through health promotion activities. Colleges and schools of pharmacy educate and graduate a health care professional that is finding growing practice opportunities across a wide range of clinical and community settings. Supported by public and private grants and funding, colleges and schools of pharmacy are working with community-level health care providers to improve patient safety, boost immunization rates, increase patient compliance for treatments associated with chronic illness, and through health promotion activities, better the health and well being of our nation.

Increasing the supply of pharmacists is not something that can be accomplished overnight. We know that you face many challenges and competing priorities during the 108th congress. your support and leadership will help meet the demand for the services of an exceptionally knowledgeable health care professional and ensure future access. We recommend you accomplish this by developing and passing legislation that will assist the nations' colleges and schools of pharmacy to increase their educational capacity.

Thank you for your continued support of pharmacy education and the pharmacy profession, and for your efforts to improve the health and well being of all Americans.

Academy of Managed Care Pharmacists (AMCP)

American Association of Colleges of Pharmacy (AACP)

American College of Apothecaries (ACA)

American College of Clinical Pharmacy (ACCP)

American Pharmaceutical Association (APhA)

American Society of Consultant Pharmacists (ASCP)

American Society of Health-Systems Pharmacists (AHSP)

Healthcare Distribution Management Association (HDMA)

References: Oregon Health Workforce Project ''Pharmacist Workforce 2002: A Sourcebook,'' December 2002; UNC Cecil G. Sheps Center for Health Services Research ''The Pharmacist Workforce in North Carolina,'' August 2002; Washington Workforce Training and Education Coordinating Board

''Health Care Personnel Shortage: Crisis or Opportunity,'' 2002; GAO–02–137R ''Supply of Health Workers''; Department of Health and Human Services ''The Pharmacist Workforce: A Study of the Supply and Demand for Pharmacists,'' December 2000; The American Hospital Association, ''In Our Hands: How Hospital Leaders Can Build A Thriving Workforce,'' April 2002; Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics.

Mr. ENZI. Mr. President, I rise to speak about a bill to address a significant problem in our Nation's healthcare delivery system—the growing shortage of pharmacists. I am joined by my distinguished colleague from Rhode Island, Senator REED, in the introduction of the Pharmacy Education Aid Act of 2003.

Why is the shortage of pharmacists in our Nation such an important concern, and why is this legislation necessary? It is because pharmacists are playing an increasingly important role in the delivery of quality healthcare, and our academic institutions are currently unable to supply the needed pharmacists. This critical link in our healthcare system is being stretched precariously thin. In December 2000, the Secretary of Health and Human Services, HHS, issued a report which confirmed the shortage of licensed pharmacists in this country.

I am particularly concerned about the shortage of pharmacists in rural and frontier areas like Wyoming. According to the HHS study, ''a threat to the rural pharmacists supply has more dire implications since in many cases, the pharmacist may be the only available health professional.'' We must do more to increase the number of pharmacists serving rural areas.

As the HHS study highlighted, we must take action now to expand the pipeline for licensed pharmacists. The Pharmacy Education Aid Act of 2003 will do so by increasing the likelihood that an individual will pursue an education as a pharmacist, that the pharmacy schools will be able to provide them with a quality education, and that pharmacists will work in facilities having the hardest time recruiting them.

What does the shortage of pharmacists mean to many Americans? It means the closure of local pharmacies. It means a decrease in patient counseling and education. It also means an increase in the potential for medication errors.

What will the Pharmacy Education Aid Act mean to many Americans—particularly those in medically underserved areas? It will mean restoring a critical link in their access to quality pharmacy care. It also will mean better healthcare overall.

Last year, the Senate passed this bill unanimously. I look forward to working with my colleagues this year on the speedy passage of this bill out of the Committee on Health, Education, Labor, and Pensions, and by the Senate.

By Mr. DEWINE (for himself, Mrs. CLINTON, Mr. GREGG, Mr. DODD, and Mr. KENNEDY):

S. 650. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I rise today to talk about a very important subject—one that affects parents, doctors, hospitals, nurses and our children each and every day. The subject that I am talking about is the safety and efficacy of the medicines that doctors give our children when they are sick.

Nearly six years ago, I was astonished to learn that close to 80 percent of drugs on the market were not tested for use in children—yet, doctors were prescribing these drugs to our children. Doctors had no choice but to prescribe these drugs for children if they thought the medicines would be helpful. And, sometimes the medicines did help—sometimes a child's pain was relieved, or a child would be able to breathe easier or digest food better because of the medicines the doctors prescribed them. But, even when the drugs do work, an anxious feeling remains among doctors and parents about whether these medicines are safe for children. How are doctors and parents to know for certain which medicines will work if they haven't been tested for safety and efficacy in children?

There are many examples, of situations where drugs have been misprescribed for children because doctors simply weren't aware of the effects these drugs would have on kids. For example, the drug, Neurontin, which is used to treat chronic pain, was given to children without being properly tested, and doctors eventually learned they were under-dosing children by 50 percent. That means children were suffering from pain because they were being under-dosed. They weren't being given the proper dose of medication to relieve their pain.

Another drug, Lithium, which has been prescribed to treat bipolar disorder since 1940 was never tested for long-term use in children until just a few months ago. This is an example of a drug that doctors have been prescribing ''off-label'' for years, and only now we are finally getting some evidence of its effect in children. According to doctors, the testing of Lithium revealed important information because children who suffer from bipolar disorder cycle between mania and depression quicker than adults, and they can even have signs of both at the same time. Unlike adults, they don't have periods of normalcy. Doctors now know that Lithium can be used to treat bipolar disorder in children.

Doctors have taken a chance in prescribing medicines for children. Doctors tell parents to cut a pill in half or in quarters so it can be given to a child. Doctors use the best information they have to determine how much or what kind of medicines to give a child. That is all they can do when the medicines children need have not been tested for their use.

Doctors and pediatricians should not be left to guess how much medicine our children should receive. And, parents shouldn't have to feel anxious or question whether the half a pill that's been ground up and put in applesauce will still be effective in treating their child—or whether it's even safe for their child to take.

It's been over a year now since the Senate passed and the President signed into law the Best Pharmaceuticals for Children's Act. As many of my colleagues know, that law has been part of a solution—but just a part of a solution—to address the problem I just mentioned. The law provides a six-month patent extension to pharmaceutical companies in exchange for the testing of medicines in children. And, for as long as the bill has been law, the Food and Drug Administration is reporting its success in ensuring that more medicines are tested for use in children. With the incentive provided by Best Pharmaceuticals, companies are seeing the value of studying their drugs in children and are applying for the patent extension.

But, the Best Pharmaceuticals incentive cannot work alone to ensure that medicines in children do not go untested. The incentive in the Best Act was never intended to work alone. When the Best Act became law, there was already a rule on the books that helped ensure that no medicine used to treat children, including vaccines or other biologics, would go untested. Back in 1997, the Food and Drug Administration proposed what is known today as the Pediatric Rule. The Pediatric Rule allowed FDA to require that the drugs the agency felt are important for children are safe, effective, and properly labeled for children.

Unfortunately, the Pediatric Rule has come under legal challenge, with a District Court ruling just a few months ago stating that FDA lacked the statutory authority to require pediatric studies. This was a troubling step backward for children's health—a troubling step at a time when 75 percent of the medicines on the market still aren't tested and labeled for pediatric use. We've made some improvements from the 80 percent of medicines on the market, but 75 percent is still too much. Without the Pediatric Rule, new medicines and biologics coming onto the market are not required to be tested for use in children. Congress needs to make sure that the FDA continues to have every tool—that includes the market incentives and the pediatric rule—available to them to ensure that drugs for children are tested for safety and efficacy and that they are labeled properly.

Everyday that a drug manufacturer chooses not to participate in the incentive program, the number of medicines

that go untested for use in children increases. Everyday that we don't have the Pediatric Rule, we sacrifice our children's safety. Medicines that are used by children should be tested for safety and efficacy. That is why Senators CLINTON, GREGG, DODD, and KENNEDY and I are introducing a bill today—the Pediatric Research Equity Act—that would ensure that the Pediatric Rule continues to work alongside the Best Act, so that children will remain on safe footing when it comes to the testing of the medications they use.

Congress needs to make sure the Pediatric Rule stays in place, because right now, the Pediatric Rule and the Best Act incentive work together to ensure that drugs are tested for use in children. As I said already, the Best Act was never intended to substitute the rule, but rather to reinforce and work with the rule. For example, the Pediatric Rule may be invoked in instances where pediatric information is essential, but the patent exclusivity is no longer available.

The Pediatric Rule also applies to biologics, whereas the Best Pharmaceuticals does not. A significant portion of therapeutics used in children, including many cancer treatments, are biological products (products that include a live agent). Because Best Pharmaceuticals does not apply to biologics, the Pediatric Rule is the only way to ensure pediatric labeling.

Finally, the Best Pharmaceuticals is voluntary. For any number of reasons, including insufficient sales, a manufacturer may choose not to conduct the testing necessary to receive additional exclusivity under the Best Act. But, just because a drug manufacturer chooses not to study the drug in children does not mean that drug is not critical to the proper treatment of our children. Without the Pediatric Rule, there is no way to guarantee that a drug that is used in the pediatric population is tested for children's use.

With the establishment of the Pediatric Rule and the financial incentives of the Best Pharmaceuticals law, there has been a dramatic increase in the number of studies that have been undertaken. Let me quote from the Government's Response to Plaintiff's Notice of Reauthorization of FDA Modernization Act. This is the document that the government filed to defend the lawsuit against the Rule: ''These two options [the Best Pharmaceuticals for Children Act and the Pediatric Rule] have resulted in a number of drugs being labeled for use in pediatric populations. As of March 31, 2002, 94 applications containing complete or partial pediatric use information had been submitted to the agency. Of these 94 applications, 45 are attributable to the statutory exclusivity provisions. FDA attributes 48 of the 94 applications to the authority of the pediatric rule alone.''

The bill that my colleagues and I are introducing today would help maintain that progress—not erode it. Our bill would provide the FDA with the authority it needs to ensure that the medicines children take are studied for safety and efficacy. And, our bill would give FDA this authority in a way so that it does not conflict with the incentives provided in the Best Pharmaceuticals Act.

Our bill would preserve the waiver and deferral process, so that drug companies can get waivers or deferrals for a range of legitimate reasons. Drug companies could get a waiver or deferral of studies for safety or ethical concerns. A drug company could get a waiver or deferral if the pediatric testing would interfere with the drug's availability for adults.

Ultimately, though, our bill would help make certain that children are no longer a therapeutic afterthought by ensuring that all new drugs are studied for pediatric use at the time a drug comes to market. This would put children on a level playing field with adults for the first time. Our children deserve no less, and I encourage my colleagues to join in support of this legislation.

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

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

S. 650

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 ''Pediatric Research Equity Act of 2003''.

SEC. 2. RESEARCH INTO PEDIATRIC USES FOR DRUGS AND BIOLOGICAL PRODUCTS.

(a) IN GENERAL.—Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505A the following:

''SEC. 505B. RESEARCH INTO PEDIATRIC USES FOR DRUGS AND BIOLOGICAL PRODUCTS.

''(a) NEW DRUGS AND BIOLOGICAL PRODUCTS.—

''(1) IN GENERAL.—A person that submits an application (or supplement to an application)—

''(A) under section 505 for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration; or

''(B) under section 351 of the Public Health Service Act (42 U.S.C. 262) for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration;

shall submit with the application the assessments described in paragraph (2).

''(2) ASSESSMENTS.—

''(A) IN GENERAL.—The assessments referred to in paragraph (1) shall contain data, gathered using appropriate formulations for each age group for which the assessment is required, that are adequate—

''(i) to assess the safety and effectiveness of the drug or the biological product for the claimed indications in all relevant pediatric subpopulations; and

''(ii) to support dosing and administration for each pediatric subpopulation for which the drug or the biological product is safe and effective.

''(B) SIMILAR COURSE OF DISEASE OR SIMILAR EFFECT OF DRUG OR BIOLOGICAL PRODUCT.—

''(i) IN GENERAL.—If the course of the disease and the effects of the drug are sufficiently similar in adults and pediatric patients, the Secretary may conclude that pediatric effectiveness can be extrapolated from adequate and well-controlled studies in adults, usually supplemented with other information obtained in pediatric patients, such as pharmacokinetic studies.

''(ii) EXTRAPOLATION BETWEEN AGE GROUPS.—A study may not be needed in each pediatric age group if data from 1 age group can be extrapolated to another age group.

''(3) DEFERRAL.—On the initiative of the Secretary or at the request of the applicant, the Secretary may defer submission of some or all assessments required under paragraph (1) until a specified date after approval of the drug or issuance of the license for a biological product if—

''(A) the Secretary finds that—

''(i) the drug or biological product is ready for approval for use in adults before pediatric studies are complete;

''(ii) pediatric studies should be delayed until additional safety or effectiveness data have been collected; or

''(iii) there is another appropriate reason for deferral; and

''(B) the applicant submits to the Secretary—

''(i) certification of the grounds for deferring the assessments;

''(ii) a description of the planned or ongoing studies; and

''(iii) evidence that the studies are being conducted or will be conducted with due diligence and at the earliest possible time.

''(4) WAIVERS.—

''(A) FULL WAIVER.—On the initiative of the Secretary or at the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments for a drug or biological product under this subsection if the applicant certifies and the Secretary finds that—

''(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients is so small or the patients are geographically dispersed);

''(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups; or

''(iii) the drug or biological product—

''(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients; and

''(II) is not likely to be used in a substantial number of pediatric patients.

''(B) PARTIAL WAIVER.—On the initiative of the Secretary or at the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments for a drug or biological product under this subsection with respect to a specific pediatric age group if the applicant certifies and the Secretary finds that—

''(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed);

''(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in that age group;

''(iii) the drug or biological product—

''(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients in that age group; and

''(II) is not likely to be used by a substantial number of pediatric patients in that age group; or

''(iv) the applicant can demonstrate that reasonable attempts to produce a pediatric

formulation necessary for that age group have failed.

''(C) PEDIATRIC FORMULATION NOT POSSIBLE.—If a waiver is granted on the ground that it is not possible to develop a pediatric formulation, the waiver shall cover only the pediatric groups requiring that formulation.

''(D) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

''(b) MARKETED DRUGS AND BIOLOGICAL PRODUCTS.—

''(1) IN GENERAL.—After providing notice in the form of a letter and an opportunity for written response and a meeting, which may include an advisory committee meeting, the Secretary may (by order in the form of a letter) require the holder of an approved application for a drug under section 505 or the holder of a license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262) to submit by a specified date the assessments described in subsection (a)(2) if the Secretary finds that—

''(A)(i) the drug or biological product is used for a substantial number of pediatric patients for the labeled indications; and

''(ii) the absence of adequate labeling could pose significant risks to pediatric patients; or

''(B)(i) there is reason to believe that the drug or biological product would represent a meaningful therapeutic benefit over existing therapies for pediatric patients for 1 or more of the claimed indications; and

''(ii) the absence of adequate labeling could pose significant risks to pediatric patients.

''(2) WAIVERS.—

''(A) FULL WAIVER.—At the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments under this subsection if the applicant certifies and the Secretary finds that—

''(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed); or

''(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups.

''(B) PARTIAL WAIVER.—At the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments under this subsection with respect to a specific pediatric age group if the applicant certifies and the Secretary finds that—

''(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed);

''(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in that age group;

''(iii)(I) the drug or biological product—

''(aa) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients in that age group; and

''(bb) is not likely to be used in a substantial number of pediatric patients in that age group; and

''(II) the absence of adequate labeling could not pose significant risks to pediatric patients; or

''(iv) the applicant can demonstrate that reasonable attempts to produce a pediatric formulation necessary for that age group have failed.

''(C) PEDIATRIC FORMULATION NOT POSSIBLE.—If a waiver is granted on the ground that it is not possible to develop a pediatric formulation, the waiver shall cover only the pediatric groups requiring that formulation.

''(D) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

''(3) RELATIONSHIP TO OTHER PEDIATRIC PROVISIONS.—

''(A) NO ASSESSMENT WITHOUT WRITTEN REQUEST.—No assessment may be required under paragraph (1) for a drug subject to an approved application under section 505 unless—

''(i) the Secretary has issued a written request for a related pediatric study under section 505A(c) of this Act or section 409I of the Public Health Service Act (42 U.S.C. 284m);

''(ii)(I) if the request was made under section 505A(c)—

''(aa) the recipient of the written request does not agree to the request; or

''(bb) the Secretary does not receive a response as specified under section 505A(d)(4)(A); or

''(II) if the request was made under section 409I of the Public Health Service Act (42 U.S.C. 284m)—

''(aa) the recipient of the written request does not agree to the request; or

''(bb) the Secretary does not receive a response as specified under section 409I(c)(2) of that Act; and

''(iii)(I) the Secretary certifies under subparagraph (B) that there are insufficient funds under sections 409I and 499 of the Public Health Service Act (42 U.S.C. 284m, 290b) to conduct the study; or

''(II) the Secretary publishes in the Federal Register a certification that certifies that—

''(aa) no contract or grant has been awarded under section 409I or 499 of the Public Health Service Act (42 U.S.C. 284m, 290b); and

''(bb) not less than 270 days have passed since the date of a certification under subparagraph (B) that there are sufficient funds to conduct the study.

''(B) NO AGREEMENT TO REQUEST.—Not later than 60 days after determining that no holder will agree to the written request (including a determination that the Secretary has not received a response specified under section 505A(d) of this Act or section 409I of the Public Health Service Act (42 U.S.C. 284m), the Secretary shall certify whether the Secretary has sufficient funds to conduct the study under section 409I or 499 of the Public Health Service Act (42 U.S.C. 284m, 290b), taking into account the prioritization under section 409I.

''(c) MEANINGFUL THERAPEUTIC BENEFIT.—For the purposes of paragraph (4)(A)(iii)(I) and (4)(B)(iii)(I) of subsection (a) and paragraphs (1)(B)(i) and (2)(B)(iii)(I)(aa) of subsection (b), a drug or biological product shall be considered to represent a meaningful therapeutic benefit over existing therapies if the Secretary estimates that—

''(1) if approved, the drug or biological product would represent a significant improvement in the treatment, diagnosis, or prevention of a disease, compared with marketed products adequately labeled for that use in the relevant pediatric population; or

''(2) the drug or biological product is in a class of products or for an indication for which there is a need for additional options.

''(d) SUBMISSION OF ASSESSMENTS.—If a person fails to submit an assessment described in subsection (a)(2), or a request for approval of a pediatric formulation described in subsection (a) or (b), in accordance with applicable provisions of subsections (a) and (b)—

''(1) the drug or biological product that is the subject of the assessment or request may be considered misbranded and subject to relevant enforcement action (except that the drug or biological product shall not be subject to action under section 303); but

''(2) the failure to submit the assessment or request shall not be the basis for a proceeding—

''(A) to withdraw approval for a drug under section 505(e); or

''(B) to revoke the license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262).

''(e) MEETINGS.—Before and during the investigational process for a new drug or biological product, the Secretary shall meet at appropriate times with the sponsor of the new drug or biological product to discuss—

''(1) information that the sponsor submits on plans and timelines for pediatric studies; or

''(2) any planned request by the sponsor for waiver or deferral of pediatric studies.

''(f) SCOPE OF AUTHORITY.—Nothing in this section provides to the Secretary any authority to require a pediatric assessment of any drug or biological product, or any assessment regarding other populations or uses of a drug or biological product, other than the pediatric assessments described in this section.

''(g) ORPHAN DRUGS.—Unless the Secretary requires otherwise by regulation, this section does not apply to any drug for an indication for which orphan designation has been granted under section 526.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)) is amended in the second sentence—

(A) by striking ''and (F)'' and inserting ''(F)''; and

(B) by striking the period at the end and inserting '', and (G) any assessments required under section 505B.''.

(2) Section 505A(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(h)) is amended—

(A) in the subsection heading, by striking ''REGULATIONS'' and inserting ''PEDIATRIC RESEARCH REQUIREMENTS''; and

(B) by striking ''pursuant to regulations promulgated by the Secretary'' and inserting ''by a provision of law (including a regulation) other than this section''.

(3) Section 351(a)(2) of the Public Health Service Act (42 U.S.C. 262(a)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

''(B) PEDIATRIC STUDIES.—A person that submits an application for a license under this paragraph shall submit to the Secretary as part of the application any assessments required under section 505B of the Federal Food, Drug, and Cosmetic Act.''.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ABBREVIATED NEW DRUG APPLICATION.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended in subparagraphs (A) and (B) of subsection (b)(2) and subparagraphs (A) and (B) of subsection (c)(2) by striking ''505(j)(4)(B)'' and inserting ''505(j)(5)(B)''.

(b) PEDIATRIC ADVISORY COMMITTEE.—

(1) Section 505A(i)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(i)(2)) is amended by striking ''Advisory Subcommittee of the Anti-Infective Drugs'' each place it appears.

(2) Section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note; Public Law 107–109) is amended—

(A) in the section heading, by striking ''**PHARMACOLOGY**'';

(B) in subsection (a), by striking ''(42 U.S.C. 217a),'' and inserting (42 U.S.C. 217a) or other appropriate authority,'';

(C) in subsection (b)—

(i) in paragraph (1), by striking ''and in consultation with the Director of the National Institutes of Health''; and

(ii) in paragraph (2), by striking ''and 505A'' and inserting ''505A, and 505B''; and

(D) by striking ''pharmacology'' each place it appears and inserting ''therapeutics''.

(3) Section 15(a)(2)(A) of the Best Pharmaceuticals for Children Act (115 Stat. 1419) is amended by striking ''Pharmacology''.

(4) Section 16(1)(C) of the Best Pharmaceuticals for Children Act (21 U.S.C. 355a note; Public Law 107–109) is amended by striking ''Advisory Subcommittee of the Anti-Infective Drugs''.

(5) Section 17(b)(1) of the Best Pharmaceuticals for Children Act (21 U.S.C. 355b(b)(1)) is amended in the second sentence by striking ''Advisory Subcommittee of the Anti-Infective Drugs''.

(6) Paragraphs (8), (9), and (11) of section 409I(c) of the Public Health Service Act (42 U.S.C. 284m(c)) are amended by striking ''Advisory Subcommittee of the Anti-Infective Drugs'' each place it appears.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act take effect October 17, 2002.

(b) NO LIMITATION OF AUTHORITY.—Neither the lack of guidance or regulations to implement this Act or the amendments made by this Act nor the pendency of the process for issuing guidance or regulations shall limit the authority of the Secretary of Health and Human Services under, or defer any requirement under, this Act or those amendments.

By Mr. ALLARD:

S. 651. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALLARD. 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. 651

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 ''National Trails System Willing Seller Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In spite of commendable efforts by State and local governments and private volunteer trail groups to develop, operate, and maintain the national scenic and national historic trails designated by Act of Congress in section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)), the rate of progress towards developing and completing the trails is slower than anticipated.

(2) Nine of the twelve national scenic and historic trails designated between 1978 and 1986 are subject to restrictions totally excluding Federal authority for land acquisition outside the exterior boundaries of any federally administered area.

(3) To complete these nine trails as intended by Congress, acquisition authority to secure necessary rights-of-way and historic sites and segments, limited to acquisition from willing sellers only, and specifically excluding the use of condemnation, should be extended to the Secretary of the Federal department administering these trails.

SEC. 3. SENSE OF THE CONGRESS REGARDING MULTIJURISDICTIONAL AUTHORITY OVER THE NATIONAL TRAILS SYSTEM.

It is the sense of the Congress that in order to address the problems involving multijurisdictional authority over the National Trails System, the Secretary of the Federal department with jurisdiction over a national scenic or historic trail should—

(1) cooperate with appropriate officials of each State and political subdivisions of each State in which the trail is located and private persons with an interest in the trail to pursue the development of the trail; and

(2) be granted sufficient authority to purchase lands and interests in lands from willing sellers that are critical to the completion of the trail.

SEC. 4. AUTHORITY TO ACQUIRE LANDS FROM WILLING SELLERS FOR CERTAIN TRAILS OF THE NATIONAL TRAILS SYSTEM ACT.

(a) INTENT.—It is the intent of Congress that lands and interests in lands for the nine components of the National Trails System affected by the amendments made by subsection (b) shall only be acquired by the Federal Government from willing sellers.

(b) LIMITED ACQUISITION AUTHORITY.—

(1) OREGON NATIONAL HISTORIC TRAIL.—Paragraph (3) of section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following new sentence: ''No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.''.

(2) MORMON PIONEER NATIONAL HISTORIC TRAIL.—Paragraph (4) of such section is amended by adding at the end the following new sentence: ''No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.''.

(3) CONTINENTAL DIVIDE NATIONAL SCENIC TRAIL.—Paragraph (5) of such section is amended by adding at the end the following new sentence: ''No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.''.

(4) LEWIS AND CLARK NATIONAL HISTORIC TRAIL.—Paragraph (6) of such section is amended by adding at the end the following new sentence: ''No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.''.

(5) IDITAROD NATIONAL HISTORIC TRAIL.—Paragraph (7) of such section is amended by adding at the end the following new sentence: ''No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.''.

(6) NORTH COUNTRY NATIONAL SCENIC TRAIL.—Paragraph (8) of such section is amended by adding at the end the following new sentence: ''No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.''.

(7) ICE AGE NATIONAL SCENIC TRAIL.—Paragraph (10) of such section is amended by adding at the end the following new sentence: ''No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.''.

(8) POTOMAC HERITAGE NATIONAL SCENIC TRAIL.—Paragraph (11) of such section is amended in the fourth sentence by inserting before the period the following: ''except with the consent of the owner thereof.''.

(9) NEZ PERCE NATIONAL HISTORIC TRAIL.—Paragraph (14) of such section is amended in the fourth sentence by inserting before the period the following: ''except with the consent of the owner thereof.''.

(c) PROTECTION FOR WILLING SELLERS.—Section 7 of the National Trails System Act (16 U.S.C. 1246) is amended by adding at the end the following new subsection:

''(l) PROTECTION FOR WILLING SELLERS.—If the Federal Government fails to make payment in accordance with a contract for the sale of land or an interest in land for one of the national scenic or historic trails designated by section 5(a), the seller may utilize any of the remedies available to the seller under all applicable law, including electing to void the sale.''.

(d) CONFORMING AMENDMENT.—Section 10(c) of the National Trails System Act (16 U.S.C. 1249(c)) is amended—

(1) by striking paragraph (1); and

(2) by striking ''(2) Except'' and inserting ''Except''.

By Mr. CHAFEE (for himself, Mr. GRAHAM of Florida, Mr. DEWINE, Mrs. FEINSTEIN, Mr. WARNER, Ms. CANTWELL, Mrs. CLINTON, Mr. SMITH, Mr. ROCKEFELLER, Mr. BUNNING, Mrs. MURRAY, Mr. KENNEDY, Ms. LANDRIEU, Mr. KERRY, and Mrs. HUTCHISON):

S. 652. A bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; to the Committee on Finance.

Mr. CHAFEE. Mr. President, I am pleased to be joined today by Senators BOB GRAHAM, DEWINE, FEINSTEIN, WARNER, CANTWELL, SMITH, CLINTON, BUNNING, ROCKEFELLER, MURRAY, KENNEDY, LANDRIEU, KERRY, and HUTCHISON in introducing the Access to Hospitals Act of 2003. This legislation will freeze Medicaid Disproportionate Share Hospital, DSH, reductions at Fiscal Year 2002 levels, thereby eliminating the scheduled Fiscal Year 2003 drop-off in Federal Medicaid DSH funding. This bill will also provide a growth rate adjustment to help compensate for the increases in the cost of providing care to the most needy and indigent patients.

This legislation is necessary because the Medicaid DSH provision included in the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, BIPA, expired on October 1, 2002. This provision provided crucial, but temporary, relief from the deep reductions in State Medicaid allotments that were contained in the Balanced Budget Act of 1997, BBA. With the BIPA provision, Congress recognized that the funding cuts in the BBA could severely undermine health care safety net services throughout our Nation. These payments help reimburse hospitals' costs of treating Medicaid patients, particularly those with complex medical needs, and make it possible for communities to care for those who lack

health coverage. At a time when our Nation's uninsured rate continues to climb above 40 million, it makes little sense to be reducing much needed Medicaid DSH payments to safety net hospitals.

Hospitals in Rhode Island will absorb approximately $400 million in reductions as a result of changes made to the Medicare and Medicaid programs in the BBA. Nine out of fifteen hospitals in my State had operating loses in Fiscal Year 2002. After the BBA was enacted, it was predicted that cuts in Federal Medicare and Medicaid payments would cost hospitals in Rhode Island $220 million over five years; however, this estimate has proven to be about $180 million off the mark. Every other State is experiencing similar problems. According to the American Hospital Association, hospitals lost almost $10 million on Medicaid and uninsured patients in 2000. This translates into an estimated loss of more than $42 million over five years. Clearly, more needs to be done to keep our vulnerable safety net hospitals from continuing on this downward spiral.

This legislation represents a common-sense approach that will help prevent the further weakening of our Nation's safety net hospitals and the long-term viability of our health care system.

I urge my colleagues to join me in supporting this important legislation, and ask unanimous consent that the text of legislation be printed in the RECORD.

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

S. 652

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 ''Access to Hospitals Act of 2003''.

SEC. 2. CONTINUATION OF MEDICAID DSH ALLOTMENT ADJUSTMENTS UNDER BIPA 2000.

(a) IN GENERAL.—Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f))—

(1) in paragraph (2)—

(A) in the heading, by striking ''THROUGH 2002'' and inserting ''THROUGH 2000'';

(B) by striking ''ending with fiscal year 2002'' and inserting ''ending with fiscal year 2000''; and

(C) in the table in such paragraph, by striking the columns labeled ''FY 01'' and ''FY02'';

(2) in paragraph (3)(A), by striking ''paragraph (2)'' and inserting ''paragraph (4)''; and

(3) in paragraph (4), as added by section 701(a)(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554)—

(A) by striking ''FOR FISCAL YEARS 2001 AND 2002'' in the heading;

(B) in subparagraph (A), by striking ''Notwithstanding paragraph (2), the'' and inserting ''The'';

(C) in subparagraph (C)—

(i) by striking ''NO APPLICATION'' and inserting ''APPLICATION''; and

(ii) by striking ''without regard to'' and inserting ''taking into account''.

(b) INCREASE IN MEDICAID DSH ALLOTMENT FOR THE DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—Effective for DSH allotments beginning with fiscal year 2003, the item in the table contained in section 1923(f)(2) of the Social Security Act (42 U.S.C. 1396r–4(f)(2)) for the District of Columbia for the DSH allotment for FY 00 (fiscal year 2000) is amended by striking ''32'' and inserting ''49''.

(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as preventing the application of section 1923(f)(4) of the Social Security Act (as amended by subsection (a)) to the District of Columbia for fiscal year 2003 and subsequent fiscal years.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to DSH allotments for fiscal years beginning with fiscal year 2003.

By Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. BOND, and Mr. HOLLINGS):

S. 654. A bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the ''Medicare Safety Net Act of 2003.'' I am particularly pleased to introduce this bill with my good friend and colleague, Senator BINGAMAN. Last year we worked together on this bill, and I am confident that with the modifications that we made to the legislation, we will be able to get it enacted into law.

This legislation will improve Medicare beneficiaries' access to primary care services and preventative treatments by increasing access to Community Health Centers. Community Health Centers, also known as federally qualified health centers, provide care to more than 1 million medically underserved Medicare beneficiaries. In many cases, Community Health Centers are the only source of primary and preventive services to which Medicare beneficiaries have access. This is especially true for people living in America's rural medically underserved areas.

In Maine, nearly 20 percent of all Community Health Center patients are on Medicare, and this figure is expected to rise dramatically in the coming years as 25 percent of health center patients will be aging into Medicare in the upcoming decades.

Besides primary and preventive care services, Community Health Centers provide other crucial services to seniors and the disabled, including treatment of chronic diseases, like diabetes and hypertension, mental health services and prescribed medications. Community Health Centers also provide transportation services or arrange for transportation that allows seniors to access health care in the absence of public transportation or a personal vehicle. In short, Community Health Centers provide the ease of ''one-stop health care shopping,'' meaning that seniors, instead of moving from location to location to receive comprehensive primary health services, typically can receive all of their essential primary care in one place.

The Medicare Safety Net Access Act makes four changes to the Medicare program to ensure that Community Health Centers can fully participate in the Medicare program and provide seniors with the vital services. Ensuring that Medicare pays its fair share is important to the stability of Community Health Centers. While one in five of all Health Center patients in Maine are Medicare beneficiaries, Medicare represents only 17 percent of total Health Center revenues. For Health Centers to remain a viable part of the health care delivery system, we must make changes.

Because Medicare currently does not reimburse health centers for the full cost of providing many vital services, like mammograms, nutrition assistance, laboratory and x-rays, health centers must utilize federal grant funding intended to serve the uninsured to cover these costs. This bill will require that Medicare, like state Medicaid programs, allow health centers to provide all Medicare-covered ambulatory services to Medicare beneficiaries in their communities.

Further, Community Health Centers face many challenges in their fight to remain in business and serve their communities. In rural communities that have Community Health Centers, the health center physicians often continue treating patients when they enter long-term care facilities, such as a nursing home. And while Congress took steps to ensure that the new SNF prospective payment system did not adversely affect this relationship, it was not successful in identifying all of the services that are provided. This bill will add health centers to the current list of providers that can bill for services provided to patients in a hospital or nursing home.

Given the role that Health Centers play in serving low-income and uninsured members of the community, providers often are willing to establish special arrangements with the Health Centers to provide additional assistance to these clients. An example of this type of arrangement is offering a reduced price for laboratory work for clients of a Community Health Center. However, under Federal anti-kickback laws this and other arrangements could be deemed illegal. Given the importance of developing community support for Health Centers and the need to encourage private-public partnerships to ensure that community financial support exists to care for low-income and uninsured individuals, this bill creates a safe harbor under the anti-kickback statute.

The final step that this legislation takes to improve access to primary and preventative services for Medicare beneficiaries is to ensure that Medicare covers a Community Health Center's cost of providing care to

Medicare+Choice beneficiaries. While the federal government requires Medicare, under the traditional fee-for-service program, to reimburse health centers for their cost to deliver care to beneficiaries, the same requirement does not exist for Medicare+Choice plans. This bill would require Medicare, like the Medicaid program, to provide wrap-around payments covering the difference between the amount paid to the health center under the managed care arrangement and the amount the health center would have received under traditional Medicare.

By making these four straightforward changes, we will be able to enhance the care that all Medicare beneficiaries receive, especially those living in underserved communities. And we will ensure that Medicare patients are not diluting federal funding intended to help the 41 million Americans that were uninsured in 2001.

By Mr. KENNEDY (for himself, Mrs. MURRAY, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. KERRY, Mr. LIEBERMAN, Mr. SCHUMER, Ms. STABENOW, Mrs. CLINTON, Mr. DURBIN, Ms. LANDRIEU, Mr. HARKIN, Mr. FEINGOLD, Mr. SARBANES, Ms. MIKULSKI, Mrs. FEINSTEIN, and Mrs. BOXER):

S.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, today, Senators MURRAY, CANTWELL, CORZINE, DAYTON, DODD, KERRY, LIEBERMAN, SCHUMER, STABENOW, CLINTON, DURBIN, LANDRIEU, HARKIN, FEINGOLD, SARBANES, MIKULSKI, FEINSTEIN, BOXER and I are re-introducing the Equal Rights Amendment to the Constitution. In doing so, we reaffirm our strong commitment to equal rights for men and women.

Adoption of the ERA is essential to guarantee that the freedoms protected by our Constitution apply equally to men and women. From the beginning of our history as a Nation, women have had to wage long and difficult battles to win the rights that men possess automatically because they are male. In 1920, we amended the Constitution to guarantee women the right to vote, and we must do so again to eliminate discrimination against women. A constitutional amendment is necessary to do so, because existing statutory prohibitions against discrimination have clearly failed to give women the assurance of equality with men.

Despite passage of the Equal Pay Act and the Civil Rights Act in the 1960s, discrimination against women continues to permeate the workforce and the vast majority of areas of the economy. Today, women earn less than 75 cents for each dollar earned by men, and the gap is even greater for women of color. In the year 2000, African American women earned just 64 percent of the earnings of white men, and Hispanic women earned only 52 percent. Women with college and professional degrees have achieved advances in a number of professional and managerial occupations in recent years—yet more than 60 percent of working women are still clustered in a narrow range of traditionally female, traditionally low-paying occupations, and female-headed households continue to dominate the bottom rungs of the economic ladder.

The routine discrimination that so many women so often face proves that there is still a need for the ERA today. A bolder effort is clearly needed to enable Congress and the States to live up to our commitment of full equality. The ERA alone cannot remedy all discrimination, but it will clearly strengthen the ongoing efforts of women across the country to obtain equal treatment.

We know from the failed ratification experiences of the past that achieving the ERA's adoption will not be easy. But its extraordinary significance requires us to continue the battle. I urge my colleagues to approve the ERA in this Congress, and join the battle for ratification in the States. Women have waited long enough for full recognition of their equal rights by the Constitution.

I ask unanimous consent that the text of our joint resolution be printed in the RECORD.

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

S.J. RES. 11

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

''ARTICLE—

''SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

''SECTION 2. Congress shall have the power to enforce this article by appropriate legislation.

''SECTION 3. This article shall take effect two years after the date of ratification.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 92—DESIGNATING SEPTEMBER 17, 2003 AS ''CONSTITUTION DAY''

Mr. DEWINE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 92

Whereas the Constitution of the United States of America was signed on September 17, 1787, by 39 delegates from 12 States;

Whereas the Constitution was subsequently ratified by each of the original 13 States;

Whereas the Constitution was drafted in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty for the citizens of the United States;

Whereas the Constitution has provided the means and structure for this Nation and its citizens to achieve a level of prosperity, liberty, security, and justice that is unparalleled among nations;

Whereas the Constitution's contributions to the welfare of the human race reach far beyond the borders of the United States;

Whereas the Senate continues to strive to preserve and strengthen the values and rights bestowed by the Constitution upon the United States of America and its citizens;

Whereas the preservation of such values and rights in the hearts and minds of American citizens would be advanced by official recognition of the signing of the Constitution: Now, therefore, be it

Resolved, That the Senate:

(1) designates September 17, 2003, as ''Constitution Day''; and

(2) calls upon the people of the United States to observe the day with appropriate ceremonies and respect.

SENATE RESOLUTION 93—COMMENDING JERI THOMSON FOR HER SERVICE TO THE UNITED STATES SENATE

Mr. DASCHLE (for himself and Mr. FRIST) submitted the following resolution; which was considered and agreed to:

S. RES. 93

Whereas Jeri Thomson was elected the thirtieth Secretary of the Senate on July 12, 2001;

Whereas Jeri Thomson served the Senate during a truly historic time and ensured that the Senate continued its work for the country despite experiencing the longest dislocation in the history of the Senate due to the largest bioterrorism attack in our Nation's history;

Whereas Jeri Thomson's dedicated service enabled the Senate to break ground for a new Capitol Visitor Center, ensuring future generations will continue to have safe access to ''The People's House''; and

Whereas, as an elected officer, Jeri Thomson has continuously upheld the highest standards of professionalism and, in the tradition of the Senate, has extended her exemplary service to all Members of the Senate and their families: Now, therefore, be it

Resolved, That the Senate—

(1) commends Jeri Thomson for her extraordinary contributions to the Senate and her country; and

(2) expresses its deep appreciation for her continuing service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Jeri Thomson.

SENATE RESOLUTION 94—COMMENDING ALFONSO C. LENHARDT FOR HIS SERVICE TO THE UNITED STATES SENATE

Mr. DASCHLE (for himself and Mr. FRIST) submitted the following resolution; which was considered and agreed to:

S. RES. 94

Whereas Alfonso C. Lenhardt (''Al'') was elected the thirty-sixth Sergeant at Arms and Doorkeeper for the United States Senate and began his service on September 4, 2001;