Amendment No. 2596

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Washington (Mrs. MURRAY) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 2596 proposed to S. 2020, an original bill to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BYRD (for himself and Mr. ROCKEFELLER).

S. 2028. A bill to provide for the reinstatement of a license for a certain Federal Energy Regulatory Commission project; to the Committee on Energy and Natural Resources.

Mr. BYRD. Mr. President, I ask unanimous consent that the text of my bill to reinstate a hydroelectric license for a Federal Energy Regulatory Commission project in Grafton, WV, be printed in the RECORD.

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

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

SECTION 1. REINSTATEMENT OF LICENSE FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to project number 7307 of the Federal Energy Regulatory Commission, the Commission shall, on the request of the licensee for the project, in accordance with that section (including the good faith, due diligence, and public interest requirements of subsections (b) and (c) of that section), extend the time required for commencement of construction of the project until December 31, 2007.

(b) APPLICABILITY.—Subsection (a) shall apply to the project on the expiration of any extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the time required for commencement of construction of the project.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If a license of the Commission for the project expires before the date of enactment of this Act, the Commission shall—

(1) reinstate the license effective as of the date of the expiration of the license; and

(2) extend the time required for commencement of construction of the project until December 31, 2007.

By Mr. BIDEN:

S. 2030. A bill to bring the FBI to full strength to carry out its mission; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce the Full Strength Bureau Initiative Act of 2005. This is a piece of legislation that I think is critically important to our national security. Over the past four years, we
have had numerous debates here in the Senate about what we need to do to protect ourselves from international terrorists. While I have disagreed with many of the specific decisions this Congress and President Bush have made, I do agree that we face a grave threat from radical fundamental terrorists. And, it should be a primary focus of our national security efforts. However, it simply makes no sense for us to spend all of our time worrying about terrorism if we turn a blind eye to traditional crime and the threat that it poses to our citizens. We simply have to be able to do both, and the legislation that I am introducing today will help do that.

Part of the response to address this threat has been to shift the primary function of the Federal Bureau of Investigation from investigating and capturing criminals to the prevention of terror attacks. I don’t disagree that this is an appropriate shift in priorities, but, we haven’t made the investments necessary for the FBI to shift priorities and meet its commitment to combat traditional crime. To address this concern, I am introducing legislation that will authorize funding for the FBI to do additional hiring. These agents will replace the ones that have been reassigned to counterterrorism cases and will help keep our communities safe. The cost—$100 million per year—is minimal when compared to the benefits it will provide. Its passage will help ensure that the FBI has the resources to achieve its counterterrorism priorities without neglecting its traditional crimefighting functions.

A 2004 Government Accountability Office found that the number of overall agents at the FBI has increased by only seven percent since 2001. During the same time, the overall percentage of agents dedicated to counterterrorism by twenty-five percent—with 678 agents being permanently shifted from drug, white collar, and violent crime cases to counter-terror activities. In addition, we know that many agents are working on counterterrorism cases even if they have not been “officially” dedicated to that effort in a process known within the FBI as “overburning.”

Ultimately, the GAO concluded, as it often does, that the impact on traditional crime fighting capabilities is minimal; however the report demonstrated many concerns. First, the report found that the FBI referred 236 counterterrorism matters to U.S. Attorneys for prosecution in fiscal year 2001, which ended three weeks after September 11. Two years later, in fiscal year 2003, the FBI referred 1,821 counterterrorism cases to U.S. Attorneys for prosecution—this is a 671 percent increase. During the same period of time, referrals for drug, whitecollar, and violent crime cases were up only by 30 percent, 23 percent, and 10 percent respectively. This statistically demonstrates that the reprogramming of agents from crime to counter-terror cases is creating a perfect storm that I’m afraid will contribute to rising crime rates in the future. The good news is that the 2004 Uniform Crime Reports show that crime remains at historic lows. But, many criminologists have pointed out that many crime indicators should caution against complacency. Last year, there were over 16,000 murders throughout the United States, and police chiefs and sheriffs are reporting worrying signs of local youth violence.

Indeed, a 2005 report by the FBI on youth gangs shows that gang activity is on the rise. Rather than pull back, we need to re-double our effort to ensure that crime rates don’t rise in the future and to push them even lower. I’ve often said that the safety of Nation’s citizens should be the top priority of our Federal Government—this applies to combating international terrorists and traditional crime.

We spent a bulk of the nineties creating a Federal, State, and local partnership that helped make our Nation safer than it has been in a generation. This partnership is breaking down because the President and many in Congress feel that local crime that is not a national priority. I couldn’t disagree more. The safety of the American people is the most important priority that we have. It doesn’t matter whether the threat comes from international terrorists, drug traffickers, or from the thugs down the street. In my opinion, it is a terrible mistake to use the successes of the past ten years and the new focus on terrorism as an excuse to abandon our critical anti-crime responsibilities. We can—and we must do both. The American people are counting on us, and the legislation that I am introducing today will help ensure that we meet our commitment to the American people to make sure that they are safe from crime and terrorism.

By Mr. DURBIN (for himself, Mr. SPECKER, Mr. DEWINE, Mr. LEAHY, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. HARKIN, Mr. AKAKA, Mr. LAUTENBERG, Ms. CANTWELL, Mr. PRYOR, and Mr. KERRY):

S. 2039. A bill to provide for loan repayment programs for public prosecutors and public defenders; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I rise today to introduce the Prosecutors and Defenders Incentive Act of 2005. I am honored to have the support and cosponsorship of Senator DeWine with whom I have enjoyed working on similar measures in previous Congresses. I am further pleased that Senators SPECKER, LEAHY, KENNEDY, FEINGOLD, FEINSTEIN, AKAKA, CANTWELL, LAUTENBERG, PRYOR, and KERRY have also agreed to join me as original cosponsors of this legislation. Our bill is designed to encourage the best and the brightest law school graduates to enter public service as criminal prosecutors and public defenders and to provide them with a student loan repayment program available to them.

I am pleased that this legislation enjoys bipartisan support. I am anxious to work closely with Chairman SPECKER and other Member LEAHY to advance it through the Judiciary Committee and secure its enactment by the full Senate.
Our proposed loan repayment program is supported by the American Bar Association, the National District Attorneys Association, the National Association of Public Defender Coordinators, the National Legal Aid and Defender Association, and the American Council of Chief Defenders.

We can—and should—do more to help prosecutors and public defender offices compete with the higher salaries available in the private sector. In many instances, the high cost of attending law school and the need to borrow to finance their legal education is not as prevalent for residents, and public law school tuition increased 76 percent.

In 1975, when private law school tuition averaged $2,525 and public law school tuition was $700, the need to borrow to finance a legal education was not as prevalent or necessary. In 1990, when tuition was $11,680 for private institutions and $3,012 for public law schools, it was at least $3,688 out of pocket. Median law school annual tuitions were $24,920 for private law schools, $18,131 for nonresidential students at public law schools, and $9,252 for resident students at public law schools.

A compilation of the tuition rates of the 186 ABA-accredited law schools for 2004 reflects that charges for State residents at public law schools average $11,820 per year. For nonresidents attending public law schools, the average tuition amounts to $20,176 per year. Students attending private law schools pay an average of $25,603 per year.

Additional amounts for food, lodging, books, fees and personal expenses increase the costs for 3 years to more than $75,000 for all cases and well over $100,000 in many instances. The vast majority of law students must borrow funds to finance their legal education. In 2002, almost 87 percent of law students borrowed to finance their legal education. That level remained consistent in 2004. Many of these students also carried unpaid debt from their undergraduate studies.

Law students are borrowing increasingly larger sums to finance their legal education. As tuition and other expenses increased, more and more students found they needed to borrow to pay for law school. During the 1990s, the average amount students borrowed more than doubled. Today, the amount borrowed by many students exceeds $60,000.

Public service salaries have not kept pace with rising law school debt burdens or private sector salaries. Fifth, high student debt bars many law graduates from pursuing public service careers. Sixth, many law graduates who take public service legal jobs must leave the practice of law to 3 years of experience. Seventh, public service employers report serious difficulty recruiting and retaining lawyers. And
result in increased interest in a post graduate Federal Government job for 83 percent of student respondents.

Despite their high debt burden, some law graduates initially accept public service jobs. However, the magnitude of debt precludes high turnover because many of these cannot afford loan obligations on a median starting salary of $36,000 and pay all their other remaining living expenses with the remaining $1,100 per month. Some who begin public service in public service, and who would like to remain, leave after a few years when they find their debts are too severely constraining on their hopes for making ends meet, much less raising children or saving for retirement.

Many public service employers report having a difficult time attracting the best qualified law graduates. Public service employers, such as prosecutor or public defender offices, have vacancies they cannot fill because new law graduates are unafford to work for them. Alternatively, those who do hire law graduates find that, because of educational debt payments, those whom they do hire leave just at the point when they have acquired the experience to provide the most valuable services.

The legal profession and society pay a severe price when law graduates are shut out from pursuing public service legal careers due to high educational debt. Many public service employers, with difficult communities as prosecutors or public defenders are unable to use their skills to do so. And when governments cannot hire new lawyers the experience ones, the ability to protect the public safety is challenged.

The inability of poor and moderate-income persons to obtain legal assistance can result in dire consequences to those individuals and the communities in which they live.

Our bill, the Prosecutors and Defenders Incentive Act, is designed to help remedy some of these problems. Enacting this measure will help make legal careers in public service as prosecutors and public defenders in the criminal justice system more financially viable and attractive to law school graduates who have incurred significant financial obligations in acquiring their education.

Our proposal would establish, within the Department of Justice, a program of student loan repayment for borrowers who agree to remain employed for at least 3 years as public attorneys who are either State or local criminal prosecutors or State, local, or Federal public defenders in criminal cases. It would allow eligible attorneys to receive student loan debt repayments of up to $10,000 per year, with a maximum aggregate over time of $60,000.

Repayment benefits for such public attorneys would be made available on a first-come, first-served basis and subject to the availability of appropriations. Priority would be given to borrowers who received repayment benefits for the preceding fiscal year and have completed less than 3 years of the first required service period. Borrowers could enter into an additional agreement, after the required 3-year period, for a successive period of service which may be less than 3 years. It would be guaranteed that any student borrower who received the benefit would be able to repay what I owe.

Our bill is modeled on the program for Federal executive branch employees which has been enjoying growing success. Federal law permits Federal executive branch agencies to repay their employees’ student loans, up to $10,000 in a year, and up to a lifetime maximum of $60,000. In exchange, the employee must agree to remain with the agency for at least 3 years.

During fiscal year 2003, 2,945 Federal employees with more than $16.4 million in student loan repayments, as reported by the Office of Personnel Management in April 2005. This marked a 42-percent increase in the number of attorneys for whom Federal service increased in benefits over fiscal year 2003.

It is noteworthy that across the Federal Government in 2004, agencies used the loan repayment program most often to recruit and retain attorneys. In 2004, Federal public defenders received loan repayments, representing 16.1 percent of all employees who received the benefit.

The Securities and Exchange Commission provided the benefit to 239 lawyers, and the Justice Department distributed program benefits to 118 of its attorneys. According to the Office of Personnel Management’s report, the Nuclear Regulatory Commission reported that the program has been of tremendous benefit in recruiting and retaining attorneys in its Honors Law Graduate Program. NRC commented that law school debt is continuing to rise—to more than $100,000 in some cases—and a gap exists between Federal and private law firm salaries. As a result, some quality candidates may rule out a career as an attorney in the Federal Government. NRC believes the Federal student loan repayment program helps the Commission overcome these obstacles.

I recently received a compelling letter from Jennifer Walsh, the assistant appellate defender for the State of Illinois. Her experiences portray in testamentary terms the real dilemmas encountered by perhaps thousands of attorneys desiring public service careers despite exorbitant student loan obligations.

To simply paraphrase Ms. Walsh’s sentiments would diminish their impact, so I would like to quote some excerpts from her letter: “It is love being a public servant. . . . Helping those who cannot afford to help themselves isn’t charity and it isn’t socially progressive. It is justice and it has made me a better person . . . . However, the one problem that I have consistently had since becoming a public defender is getting my student loans paid. I have a debt burden over $110,000. . . . My student loan payments will soon exceed my monthly take-home pay. I cannot help pay the mortgage on my house. I cannot save for my two children’s futures. During a financial crisis, my husband knows that he cannot turn to me to help the family finances. . . . I am now faced with a Hobson’s choice—do I fulfill the needs of my indigent clients or my struggling family? I absolutely, positively don’t want to leave. But my responsibilities to my family and my student loan creditors make staying in the public sector feel selfish and irresponsible. Imagine that—working for the public good seems selfish and irresponsible because I cannot do what I love, and at the same time repay what I owe.”

I appreciate Ms. Walsh’s willingness to share her perspectives with me. By enacting and funding this legislation, we can take a meaningful step toward alleviating some of the financial burdens attorneys such as Ms. Walsh who choose careers as criminal prosecutors and public defenders.

I know there are many other law graduates who, like Jennifer Walsh, want to apply their legal training and skills in the public sector, but are deterred by the weight of student loan obligations. Passage of our legislation will help make their careers dreams a reality. I urge its swift adoption.

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:

SEC. 2. LOAN REPAYMENT FOR PROSECUTORS AND DEFENDERS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART HH—LOAN REPAYMENT FOR PROSECUTORS AND PUBLIC DEFENDERS" (2) PUBLIC DEFENDER. The term ‘public defender’ means an attorney who represents of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prosecutors and Defenders Incentive Act of 2005".

SEC. 2. LOAN REPAYMENT FOR PROSECUTORS AND DEFENDERS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:
(B) is—

(i) a full-time employee of a State or local agency or a nonprofit organization operating under a contract with a State or unit of local government that provides legal representation to indigent persons in criminal cases; or

(ii) employed as a full-time Federal defender attorney in a defender organization established pursuant to subsection (g) of section 3006A of title 18, United States Code, that provides legal representation to indigent criminal defendants.

(3) STUDENT LOAN—The term ‘student loan’ means—

(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.); (B) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1076a et seq. and 1087aa et seq.); and

(C) a loan made under section 428C or 455(g) of the Higher Education Act of 1965 (20 U.S.C. 1073 and 1087c(g)) to the extent that such loan was used to repay a Federal Direct U.S.C. 1087a et seq. and 1087aa et seq.); and

(3) STUDENT LOAN—The term ‘student loan’ means—

(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.); (B) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1076a et seq. and 1087aa et seq.); and

(c) PROGRAM AUTHORIZED.—The Attorney General shall establish a program by which the Department shall assume the obligation to repay a student loan, by direct payments on behalf of a borrower to the holder of such loan, in accordance with subsection (a) and in an amount determined by the Attorney General by application of the following standards:

(1) IN GENERAL.—On completion of the required period of service under an agreement entered into under subsection (d), the borrower and the Attorney General may, subject to paragraph (2), enter into an additional agreement in accordance with subsection (d).

(2) TERM.—If the borrower enters into an agreement under paragraph (1) that requires the borrower to remain employed as a prosecutor or public defender for a term of not less than 3 years after the required period of service, the Attorney General shall provide repayment benefits under the agreement in any fiscal year to a borrower who—

(A) received repayment benefits under this section during the preceding fiscal year; and

(B) has completed less than 3 years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

(e) ADDITIONAL AGREEMENTS.—

(1) IN GENERAL.—On completion of the required period of service under an agreement entered into under subsection (d), the borrower and the Attorney General may, subject to paragraph (2), enter into an additional agreement in accordance with subsection (d).

(2) TERM.—If the borrower enters into an agreement under paragraph (1) that requires the borrower to remain employed as a prosecutor or public defender for a term of not less than 3 years after the required period of service, the Attorney General shall provide repayment benefits under the agreement in any fiscal year to a borrower who—

(A) received repayment benefits under this section during the preceding fiscal year; and

(B) has completed less than 3 years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

(g) REGULATIONS.—The Attorney General is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2006 and such sums as may be necessary for each succeeding fiscal year.

By Mr. AKAKA (for himself, Mr. LAUTENBERG, and Mr. CARPER),

S. 2040. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to ensure that the Department of Homeland Security is led by qualified, experienced personnel; to the Committee on Homeland Security and Governmental Affairs,

Mr. AKAKA. Mr. Chairman, I rise today to introduce legislation that will help ensure our homeland security is in the hands of the best and the brightest leaders. The Department of Homeland Security Qualified Leaders Act will establish minimum qualification standards for individuals appointed to positions in the Department of Homeland Security, DHS. I am joined by Senators LAUTENBERG and CARPER in introducing this bill, and I thank them for their support.

Hurricane Katrina and the resignation of Under Secretary Michael Brown have raised concerns regarding the experience and qualifications of political appointees in the Federal Government. Mr. Brown had minimal emergency management experience prior to joining the Federal Emergency Management Agency, FEMA. Despite Mr. Brown’s 3 years as a senior official at FEMA, the agency faltered during Hurricane Katrina under his leadership.

While not all of the Government’s failures to prepare for and respond to Hurricane Katrina can be placed at Mr. Brown’s doorstep, leadership matters. At a recent Homeland Security and Governmental Affairs Committee hearing on the Coast Guard’s response to Hurricane Katrina, Cpt Bruce C. Jones, the commanding officer of Coast Guard Air Station New Orleans, testified, ‘‘What counts most in a crisis, is not the plan, it’s leadership. Not processes, but people. And not organizational charts, but organizational culture.’’

According to Captain Jones, one of the reasons the Coast Guard was able to respond immediately and perform efficiently during Hurricane Katrina is because its leaders are focused. At a recent Homeland Security and Government Accountability Office hearing on the Coast Guard’s response to Hurricane Katrina, the witness, Mr. Brown, who had minimal emergency management experience prior to joining the Coast Guard, testified that the Coast Guard ‘‘failed to prepare for and respond to Hurricane Katrina’’

In addition, DHS, with its multitude of management challenges, requires leaders with strong management experience. Over the past few years, the Department of Homeland Security Accountability Office has cited DHS for poor contract management, ineffective financial systems, and major human capital challenges. Moreover, DHS is in the process of implementing its Second Stage Review, an attempt to better organize the Department to meet its many missions. As Secretary Michael Chertoff overhauls the Department to create what will hopefully be a structure that serve DHS well for years to come, he needs senior officials who have experience running large organizations and people who know which systems and chains of command work and which do not. Good managers are needed across the Federal Government, but nowhere are they more needed than in an infant agency.

Reporters David Walker said in a September 21, 2005, interview with Federal Times that ‘‘for certain key positions, given those key positions, there should be statutory qualification requirements for any nominee.’’ I agree.

For these reasons, we must ensure that the right people are leading DHS. Our bill delineates requirements for Senate-confirmed positions based on their compensation under the Executive Schedule. The most senior officials, those in Executive Level II and III, will be required to possess at least 5 years of management experience, 5 years of experience in a field relevant to the position for which the individual
is nominated, such as customs intelligence, or cybersecurity, and a demonstrated ability to manage a substantial staff and budget. These requirements will apply to the following positions: the Under Secretary of Science and Technology; the Under Secretary of Preparedness; the Director of FEMA; and the Under Secretary of Management. The Secretary and Deputy Secretary of Homeland Security are exempt from this bill.

Executive Level IV positions will be required to have significant management experience, at least 5 years of experience in a field relevant to the position for which the individual is nominated, and a demonstrated ability to manage a substantial staff and budget. These position include the Assistant Secretary for Immigration and Customs Enforcement; the Assistant Secretary for Customs and Border Patrol; the Assistant Secretary for Border and Transportation Security Policy; the Assistant Secretary for Plans, Programs, and Budgets; the Director of the Office State and Local Government Coordination and Preparedness; the Director of U.S. Citizenship and Immigration Services; the Inspector General; the Chief Financial Officer; the U.S. Fire Administrator; and the General Counsel. The bill exempts the commandant of the Coast Guard from this section since requirements for selection of the commandant already exist in law.

I believe that any program or agency will succeed or fail based on leadership. This is especially true at Federal agencies, which need senior leaders with management skills and subject matter expertise. Our bill is a step in the right direction, and I urge my colleagues to join us in passing this important legislation.

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

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

S. 290

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 “Department of Homeland Security Qualified Leaders Act of 2005.”

SEC. 2. FINDINGS.

Congress finds that—

(1) the Department of Homeland Security, a large organization comprised of 180,000 employees and 22 legacy agencies, has complex mission of securing the homeland from man-made and natural disasters;

(2) the Department and the agencies within the Department require strong leadership from proven managers with significant experience in their respective fields and;

(3) the majority of positions requiring senior officers are filled by individuals with significant experience in a field relevant to the position for which the individual is nominated.

SEC. 3. QUALIFICATIONS OF CERTAIN SENIOR OFFICERS.

(a) In general. The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 103 the following:

“(a) EXECUTIVE SCHEDULE LEVEL II OR III POSITIONS.

(1) Positions.—This subsection shall apply to any position in the Department that—

(A) requires appointment by the President, by and with the advice and consent of the Senate; and

(B) is at level II or III of the Executive Schedule under section 5315 of title 5, United States Code, (including any position for which the rate of pay is determined by reference to level II or III of the Executive Schedule).

(2) ADDITIONAL QUALIFICATIONS.—In addition to any other qualification applicable to a position described under paragraph (1), any individual appointed to such a position shall possess—

(A) at least 5 years of executive leadership and management experience in the public or private sector;

(B) at least 5 years of significant experience in a field relevant to the position for which the individual is nominated; and

(C) a demonstrated ability to manage a substantial staff and budget.

(b) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.

(1) Positions.—This subsection shall apply to any position in the Department that—

(A) requires appointment by the President, by and with the advice and consent of the Senate; and

(B) is at level IV of the Executive Schedule under section 5315 of title 5, United States Code, (including any position for which the rate of pay is determined by reference to level IV of the Executive Schedule).

(2) ADDITIONAL QUALIFICATIONS.—In addition to any other qualification applicable to a position described under paragraph (1), any individual appointed to such a position shall possess—

(A) significant executive leadership and management experience in the public or private sector;

(B) at least 5 years of significant experience in a field relevant to the position for which the individual is nominated; and

(C) a demonstrated ability to manage a substantial staff and budget.

(c) EXCEPTIONS.—This section shall not apply to the position of—

(1) the Secretary;

(2) the Deputy Secretary of Homeland Security; and

(3) the Commandant of the Coast Guard.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to lessen any qualification otherwise required of any position.

(e) SENSE OF CONGRESS.—It is the sense of Congress that individuals nominated by the President for the positions of Secretary and Deputy Secretary of Homeland Security should possess significant management experience and expertise in a relevant field because of the significant level of responsibility entrusted to these individuals.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by inserting after the item relating to section 103 the following:

“Sec. 104. Qualifications of certain senior officers.”.

By Mr. REID:

S. 2011. A bill to provide for the conveyance of a United States Fish and Wildlife Service administrative site to the city of Las Vegas, Nevada; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, I rise today to introduce the Ed Fountain Park Expansion Act. This legislation would transfer approximately eight acres of property from the Bureau of Land Management to the city of Las Vegas to allow for the expansion of one of the city’s most popular parks.

Ed Fountain Park is one of the best known and well-used parks in the city of Las Vegas. Located in a mature part of the city, adjacent to the oldest golf course, Ed Fountain Park has provided recreational opportunities for generations of local residents. For many years it has been home to Pop Warner football practices, youth soccer games, and family picnics and reunions. On any given day or night, a multitude of activities are taking place at the park, many of which are associated with the numerous nonprofit organizations that utilize the park’s resources.

The city of Las Vegas contacted my office several months ago to express their desire to expand Ed Fountain Park by acquiring land adjacent to the park that served as the site of the local administrative offices for the Bureau of Land Management and U.S. Fish and Wildlife Service. The property was vacated by both Federal land management agencies several years ago after they relocated to a larger, multi-jurisdictional facility in the northwest part of the Las Vegas Valley.

The property to be acquired by the city is technically classified as part of the Desert National Wildlife Refuge Complex and is currently under the jurisdiction of the Fish and Wildlife Service. The parcel in question, however, is many miles away from the actual wildlife refuge and sits as a vacant urban lot. The former administrative offices that were housed on the land were placed there many decades ago when this area was sparsely populated in the outskirts of town. Now, after years of unprecedented growth, this land is surrounded by well-established neighborhoods. The site also contains a single empty historical structure that would be part of the conveyance.

Were the property under the jurisdiction of the BLM, as is usually the case in the Las Vegas Valley, the property could have been transferred administratively under the authority of the Recreation and Public Purposes Act. But because it is the property of the Fish and Wildlife Service, legislation is needed to transfer ownership of the property from the Fish and Wildlife Service to the city.

This legislation provides the city with maximum flexibility to use the parcel to expand Ed Fountain Park, to build new athletic fields, to develop a community center, or any combination of these uses. All of these potential uses are in the public interest and provide important justification for conveying the land to the city at no cost. I look forward to working with the distinguished chairman and ranking
member of the Environment and Public Works Committee to move this legislation forward in a timely manner.

I ask unanimous consent that the text of the bill be printed in the Record. The Senate agreed.

The bill was ordered to be printed in the Record, as follows:

S. 2041
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SEC. 1. SHORT TITLE.
This Act may be cited as the “Ed Fountain Park Expansion Act”.

SEC. 2. DEFINITIONS.
In this Act:

(1) ADMINISTRATIVE SITE.—The term “administrative site” means the parcel of real property identified as “Lands to be Conveyed to the City of Las Vegas, Nevada, approximately, 7.89 acres” on the map entitled “Ed Fountain Park Expansion” and dated November 1, 2005.

(2) CITY.—The term “City” means the city of Las Vegas, Nevada.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

SEC. 3. CONVEYANCE OF UNITED STATES FISH AND WILDLIFE SERVICE ADMINISTRATIVE SITE, LAS VEGAS, NEVADA.

(a) In GENERAL.—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the administrative site for use by the City:

(1) as a park; or

(2) for any other recreation or nonprofit-related purpose.

(b) ADMINISTRATIVE EXPENSES.—As a condition of the conveyance under subsection (a), the Secretary shall require that the City pay the administrative costs of the conveyance, including survey costs and any other costs associated with the conveyance.

(c) REVOSIONARY INTEREST.—

(1) In GENERAL.—If the Secretary determines that the City is not using the administrative site for a purpose described in paragraph (1) or (2) of subsection (a), all right, title, and interest of the United States in and to the administrative site (including any improvements to the administrative site) shall revert, at the option of the Secretary, to the United States.

(2) HEARING.—Any determination of the Secretary with respect to a reversion under paragraph (1) shall be made—

(A) on the record; and

(B) after an opportunity for a hearing.

By Mr. CHAMBLISS (for himself and Mr. HARKIN):
S. 2042
A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CHAMBLISS. Mr. President, today, Senator HARKIN and I are introducing the POPs, LRTAP POPs and PIC Implementation Act of 2005. This bill would amend the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to implement the United States’ pesticide-related obligations under the Stockholm Convention on Persistent Organic Pollutants (POPs Convention), the Aarhus Protocol on Persistent Organic Pollutants to the Geneva Convention on Long Range Transboundary Air Pollution (LRTAP POPs Protocol) and the Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC Convention).

POPs are certain chemicals that are toxic, persistent and bioaccumulative in the environment for an extended period of time and can bioaccumulate in the human food chain. POPs have been linked to adverse health effects on humans and animals. Due to their persistent characteristics and ability to circulate globally, POPs that are released in one part of the world can travel to neighboring regions and negatively affect environments where they are not produced or used.

The United States has taken a leading role in reducing and eliminating POPs. In the late 1970s, the United States prohibited the manufacture of new PCBs and severely restricted the use of remaining stocks. And over the past 35 years, the United States has had a strong regulatory program in place to reduce releases and provide for the safe disposal of POPs and control sources of POPs by-products.

Specifically, the convention requires all signatory nations to stop the production and use of 12 listed POPs, including DDT, PCBs and dioxins. Parties to the convention also agree to control sources of POPs by-products to reduce releases and provide for the safe handling and disposal of POPs in an environmentally sound manner.

The protocol is the safe management of hazardous chemicals. Over time, the convention will help bring an end to the production and use of dangerous chemicals. Even prior to signing the POPs Convention, the United States prohibited the sale of all the POPs pesticides initially targeted by the convention.

In 2001, Congress, at the urging of President George W. Bush, signed the POPs Convention. Its ultimate goal is the safe management of hazardous chemicals. Over time, the convention will help bring an end to the production and use of dangerous chemicals around the world and to positively affect the U.S. environment and public health.

Specifically, the convention requires all signatory nations to stop the production and use of 12 listed POPs, including DDT, PCBs and dioxins. Parties to the convention also agree to control sources of POPs by-products to reduce releases and provide for the safe handling and disposal of POPs in an environmentally sound manner.

At this time, the United States is not a party to the conventions and does not have a seat at the negotiating table. This weak position hampers the ability of our technical experts and negotiators to protect our leadership role in international pesticide policy and regulations.

Our observer-only status also limits our ability to participate in the critical decisions that affect U.S. businesses, and economic interests and our environment and public health. The delay in ratifying the conventions serves to marginalize us.

The U.S. delegation was unable to fully participate in the first meeting of parties to the POPs Convention held in May 2005 in Punta del Este, Uruguay. The next meeting of the parties to the POPs Convention is in May 2006. I urge my colleagues to ratify these conventions and pass implementing legislation so that the United States can claim its rightful place as a world leader in the safe management of hazardous chemicals.

I look forward to working with my colleagues on the Senate Foreign Relations Committee and the Environment and Public Works Committee on this matter.

Mr. HARKIN. Mr. President, today I am pleased to join with Chairman CHAMBLISS in introducing legislation to implement the Stockholm Convention on Persistent Organic Pollutants, the
LRTAP POPs Protocol, and the Rotterdam PIC Protocol. These three agreements provide an international framework for controlling and eliminating the use of chemicals that have the greatest potential for long-term environmental damage. These persistent organic pollutants, or POPs, are chemicals that do not easily break down in the environment. As a result, they tend to move across international boundaries and bio-accumulate—in other words, they travel up the food chain.

This legislation modifies existing U.S. law under the Federal Insecticide, Fungicide and Rodenticide Act, FIFRA, to bring us into compliance with these agreements with regard to chemicals used in agriculture. Implementation of the agreements will also require modification of the Toxic Substances Control Act, TSCA.

These conventions and protocols have already entered into force. But at this point, though the United States is a signatory to all of them, we have not ratified them. All of the chemicals that are listed in the agreement are already banned or tightly controlled under U.S. law, but the Stockholm Convention’s Review Committee just met in Geneva and directives are planned. Decisions are being made without our delegation able to fully participate as a party to the agreement. The United States needs to ratify the convention in order to have a voice in this process.

Our goal in writing this legislation is to allow for any information or studies we are introducing today would not provide an automatic process that compelled the Environmental Protection Agency, EPA, to take action. In essence, we are allowing the EPA to move forward and take action on a chemical if the case made in the international review for a ban is strong enough to turn the wheel and generate new data to back up their conclusions, while at the same time, not mandating EPA action to ban or regulate a chemical. This legislation strikes a fair balance and one that is consistent with the limited goal we have in this process to bring FIFRA into compliance with our international obligations.

The most controversial aspects of this legislation are the provisions that deal with the process by which new chemicals are brought under the convention’s control. It is critically important that the position of the United States in the international regulation of chemicals take into account the views of all stakeholders: manufacturers, farmers, environmental scientists, State regulators—everyone who has a stake in the process.

Under the Stockholm Convention, the process of listing new POPs chemicals is divided into stages. The review committee determines whether a chemical satisfies the agreed screening criteria in the convention; if the criteria are satisfied, a risk profile is prepared; if on the basis of the risk profile, action is required, the committee or parties would consider listing the chemical.

In each of these stages, the U.S. position should be informed by formal notice and comment periods as provided in existing law. The Federal notice and comment process is open, well developed, and well understood by stakeholders in the process. If this process is optional, there is the risk that the U.S. position could be formed without taking into account important views. If the U.S. position is required, the committee or parties would consider listing the chemical.

The administration’s draft of this legislation gave the EPA Administrator permission to initiate a notice and comment period but did not require it. The argument for this position was a constitutional claim that the executive authority over negotiations with other nations includes a right to rely on whatever information that the president chooses to use. The remedy for negotiating a faulty treaty, according to the letter received from the Department of Justice, is for the Senate to refuse to consent to the treaty.

This position is not consistent with existing Federal law and is impractical particularly in a process like this one, where the negotiation in question would never be subject to ratification by the Senate. My concern with this constitutional theory resulted in an exchange of correspondence last year, when this bill was being drafted by then-Chairman Cochran.

I wrote to then-Administrator Michael Leavitt at the EPA, asking for a written explanation of the administration’s position on this issue. This resulted in two letters, one from Administrator Leavitt on behalf of the EPA dated March 25, 2004, and one from Assistant Attorney General William Moschella on behalf of the Department of Justice dated March 25, 2004. Finally, I requested an analysis of the constitutional issues raised by this provision from the American Law Division of the Congressional Research Service and received a memorandum dated March 30, 2004. I will offer all of these letters and the CRS memorandum for inclusion in the RECORD at the end of my statement.

Stated succinctly, the separation of powers doctrine “implicit in the Constitution and well established in case law, forbids Congress from infringing upon the Executive Branch’s ability to conduct foreign relations without the President.” The Supreme Court has established that in determining whether an act of Congress has violated the doctrine, “the proper inquiry focuses on the extent to which it prevents the Executive Branch from accomplishing its constitutionally assigned functions.”

The memo goes on to state that it is “difficult to see how a mandatory notice and comment requirement would implicate this traditional executive function.” The memo concludes that “it does not appear that a mandatory notice and comment requirement would present any substantive separation of powers concerns.” Clearly, there is no merit to the Justice Department’s contention that mandatory notice and comment would be an unconstitutional intrusion into the President’s exclusive prerogative over foreign policy. Clearly, future steps taken domestically to carry out these international agreements should be in- formed by the views of all stakeholders and build the record through the notice and comment procedure for domestic implementation of any international action. This legislation makes the right choice by mandating notice and comment.

I appreciate the opportunity to work with Chairman Chambliss on this legislation, and with our committee’s previous chair, Senator Cochran, whose work I tracked carefully to develop this legislation. I am hopeful that we can work together with the other body to reach agreement on implementing legislation along the lines of this bill.
that will clear the way for ratification of the Stockholm Convention. I ask unanimous consent to include in the RECORD a letter to Administrator Michael Leavitt, his response from March 25, 2004, the response to the same request by a colleague from the House of Representatives, and the memorandum of law from the Congressional Research Service.

There being no objection, the material was agreed to and is printed in the RECORD, as follows:


Hon. MICHAEL LEAVITT, Administrator, Environmental Protection Agency, Washington, DC.

DEAR ADMINISTRATOR LEAVITT: Thank you for your note asking for my help in moving the Stockholm Convention legislation to implement the Stockholm Protocols. I certainly want to be helpful in that regard and support moving implementing legislation as expeditiously as possible. The Congress will be able to do its job better when it has the reports and analyses of the Environmental Protection Agency to eliminate the threat that persistent organic pollutants (POPs) pose to our environment.

As we move forward on this legislation, I believe it is important to regulate not only the substances controlled by the Stockholm Protocols, but also to improve your agency's ability to address these types of pollutants through the regulatory system. I also believe that we can expedite as much as possible, with opportunities for public participation and comment. This public participation and comment is particularly important in light of the evolutionary system as is, and it is an opportunity for new pollutants to be identified.

The recent draft of the legislation put forward by the EPA, however, makes each of these notice and comment periods fully subject to the agency's discretion. It has also been asserted that if Congress requires the agency to provide a notice and comment period based on action of the Executive branch, it would unconstitutionally impinge on our national sovereignty. This is a novel constitutional analysis that I would like to understand better before this legislation moves forward. I request that, prior to our Committee taking up this issue, you provide me with any legal analysis, legal opinions, and citations to any legal authority supporting the proposition that Congress cannot require the EPA to provide notice and comment periods in response to actions of an international body. I know that you are as committed as I am to move this legislation expeditiously, and I look forward to receiving this information soon.

I look forward to working with you on this matter and want to help in any way I can to assist you in your work of improving our nation's environment.

Sincerely,

TOM HARKIN,
Ranking Democratic Member.


Hon. TOM HARKIN, Ranking Member, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.


As you know, the Stockholm Convention creates an international “Persistent Organic Pollutants Review Committee” to evaluate whether various substances should be added or removed from the Convention’s coverage. The United States expects to play a strong role at the International POPs Review Committee, and, as you note in your letter, the United States could use the notice and comment procedures under the proposed bill to “allow public input at each of the three stages of the review committee process.”

U.S. stakeholders will no doubt have a great deal of interest in the proposed pollutants brought before the review committee formed by this legislation. One concern about the proposed implementing legislation would provide for mandatory notice and comment periods to allow public input at each of the three stages of the review committee process. The most recent draft of the legislation put forward by the EPA, however, makes each of these notice and comment periods fully subject to the agency’s discretion. It has also been asserted that if Congress requires the agency to provide a notice and comment period based on action of the Executive branch, it would unconstitutionally impinge on our national sovereignty. This is a novel constitutional analysis that I would like to understand better before this legislation moves forward. I request that, prior to our Committee taking up this issue, you provide me with any legal analysis, legal opinions, and citations to any legal authority supporting the proposition that Congress cannot require the EPA to provide notice and comment periods in response to actions of an international body. I know that you are as committed as I am to move this legislation expeditiously, and I look forward to receiving this information soon.

I look forward to working with you on this matter and want to help in any way I can to assist you in your work of improving our nation’s environment.

Sincerely,

TOM HARKIN,
Ranking Democratic Member.


Hon. TOM HARKIN, Ranking Member, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.


As you know, the Stockholm Convention creates an international “Persistent Organic Pollutants Review Committee” to evaluate whether various substances should be added or removed from the Convention’s coverage. The United States expects to play a strong role at the International POPs Review Committee, and, as you note in your letter, the United States could use the notice and comment procedures under the proposed bill to “allow public input at each of the three stages of the review committee process.”

U.S. stakeholders will no doubt have a great deal of interest in the proposed pollutants brought before the review committee formed by this legislation. One concern about the proposed implementing legislation would provide for mandatory notice and comment periods to allow public input at each of the three stages of the review committee process. The most recent draft of the legislation put forward by the EPA, however, makes each of these notice and comment periods fully subject to the agency’s discretion. It has also been asserted that if Congress requires the agency to provide a notice and comment period based on action of the Executive branch, it would unconstitutionally impinge on our national sovereignty. This is a novel constitutional analysis that I would like to understand better before this legislation moves forward. I request that, prior to our Committee taking up this issue, you provide me with any legal analysis, legal opinions, and citations to any legal authority supporting the proposition that Congress cannot require the EPA to provide notice and comment periods in response to actions of an international body. I know that you are as committed as I am to move this legislation expeditiously, and I look forward to receiving this information soon.

I look forward to working with you on this matter and want to help in any way I can to assist you in your work of improving our nation’s environment.

Sincerely,

TOM HARKIN,
Ranking Democratic Member.
alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiators are not new. Similar concerns were raised by the Department of Justice under President Clinton, President George H. W. Bush, and President Reagan. In each case, the Department objected to legislative proposals that would have required that the Executive branch consult in the context of international negotiations. For example, during the Clinton administration, the Department of Justice objected to legislative proposals that would have directed the Executive branch to consult with interested parties prior to negotiating trade agreements or prior to taking a position before the World Trade Organization. In 1991, the Department advised that the United States Trade Representative could not be required to periodically consult with interested parties on the progress of international trade negotiations. During the Reagan administration, the Department wrote to Senator Lowell Weicker explaining that a proposed consultation requirement was objectionable because any provision that would require that the Executive branch consult with interested parties prior to negotiating trade agreements or prior to taking a position before the World Trade Organization. In 1991, the Department advised that the United States Trade Representative could not be required to periodically consult with interested parties on the progress of international trade negotiations. During the Reagan administration, the Department wrote to Senator Lowell Weicker explaining that a proposed consultation requirement was objectionable because any provision that would require that the Executive branch consult with interested parties prior to negotiating trade agreements or prior to taking a position before the World Trade Organization.
of the Convention. Prior to the addition of a chemical, the LRTAP POPs Protocol requires the completion of a risk profile on the chemical establishing that it meets selection criteria specified under the protocol. The LRTAP POPs Protocol establishes that it meets selection criteria specified under the protocol.

The Draft Proposal

The Administration’s draft proposal, as supplied by your office, provides for the implementation of S. 2043 and POPs Convention and the LRTAP POPs Protocol. To effectuate this implementation, the proposal imputes the Administrator with the discretionary authority to publish notices in the Federal Register in response to actions taken to add chemicals to the list of those covered under the POps Convention and the LRTAP POPs Protocol. As noted above, the POps Convention establishes that a POPs Review Committee that is responsible for proposing listing to those listed in the POps Convention and recommending to the Conference of the Parties whether a proposed chemical should be considered for listing by the Conference. In the event that the POps Review Committee does not forward a proposal, the Conference may choose to consider the proposal on its own accord. Section 3(1) of the draft bill contains several provisions authorizing the Administrator of the EPA to publish notices in the Federal Register at certain times. The draft proposal would provide an opportunity for comment on a proposed listing. In particular, Section 3(4), establishing a new 7 U.S.C. 136o(e)(3), authorizes the Administrator to publish notices and opportunity for comment after a decision by the POps Review Committee that a listing proposal meets the screening criteria specified in the POps Convention and the LRTAP POPs Protocol. As an example of a proposed listing, the POps Review Committee decides that such a proposal should proceed.

Likewise, a new 7 U.S.C. 136o(e)(4) would authorize the Administrator to publish notices and opportunity for comment upon a determination by the POps Review Committee that a proposed listing warrants global action, or, alternatively, if the Conference of the Parties decides that such a proposal should proceed.

Publication of notice and opportunity for comment would also be authorized after a party to the LRTAP POPs Protocol submits a risk profile of a proposed listing to add a chemical to those already listed. Additional notice and comment proceedings would be authorized in instances where the Executive Body determines that further consideration of a pesticide is warranted, as well as after the completion of a technical review of a proposal to add a chemical to the LRTAP POPs Protocol. It is interesting to note that while the draft proposal makes the decision as to whether to engage at all in notice and comment procedures discretionary, the draft proposal also authorizes the Administrator to provide detailed notices of notice in the event that such procedures are offered.

You have specifically inquired as to whether it would violate the doctrine of separation of powers to make the aforementioned discretionary notice and comment procedures mandatory. As mentioned earlier, the general concern voiced by the Administration that a mandatory consultation requirement would raise constitutional issues. An examination of applicable principles and precedent appears to indicate that a mandatory notice and comment requirement would be constitutionally permissible.

Stated succinctly, the separation of powers doctrine “implicit in the Constitution and well established in case law, forbids Congress from infringing upon the Executive Branch’s ability to perform its traditional functions.” The Supreme Court has established that in determining whether Congress has violated the doctrine, “the proper inquiry focuses on the extent to which it prevents the Executive Branch from accomplishing its constitutional functions.” Furthermore, as was noted by the Court of Appeals for the Ninth Circuit in Confederated Tribes of Siletz Indians of Oregon v. Washington, Although the Supreme Court has not announced a formal list of elements to be considered when determining whether a violation of the doctrine has occurred, it has consistently looked to at least two factors: (1) the governmental branch to which the function in question is traditionally assigned, or, if ignored, the degree to which the function is delegated; and (2) the control of the function retained by the branch, see Mistretta, 489 U.S. at 65-67; Morrison v. Olson, 487 U.S. 654, 694-96, 108 S.Ct. 2597, 2620-22, 101 L.Ed. 2d 65 (1988); and (2) the control of the function retained by the branch, see Mistretta, 489 U.S. at 608-10, 694, 108 S.Ct. at 2699-2700.

Applying these factors to the case at hand, it appears unlikely that a reviewing court would hold that mandatory notice and comment procedures would violate the doctrine. It is important to note that it seems that any argument that a mandatory requirement would offend the separation of powers doctrine would hinge on the assertion that such a requirement necessarily constitutes an intrusion into the core power of the Executive Branch over external affairs. Specifically, in United States v. Curtiss-Wright Corp., the Supreme Court declared: [n]ot only ... is the federal power over external affairs in origin and essential character different from that over internal affairs, but the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate, and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives, the Senate is the only organ of the nation in its external relations, and its sole representative with foreign nations.

However, it is difficult to show that a mandatory notice and comment requirement would constitute an intrusion into the core power of the Executive Branch over external affairs. Specifically, while it is generally conceded that there are some powers enjoyed by the President alone regarding foreign affairs, it is likewise evident that Congress possesses wide authority to promulgate policies regarding specific powers. As was often exercised this authority to determine policy objectives for the United States in international negotiations and to require subrogation of certain international agreements before they may enter into force for the United States.

A mandatory notice and comment requirement would not appear to be an attempt to control the substance of negotiations between the United States and other parties to POps Convention or the LRTAP POPs Protocol. Instead, the proposal would simply establish that the Administrator must publish notices in the Federal Register providing information regarding chemicals that are being considered for listing either to the Convention or the Protocol. A somewhat analogous requirement in the international arena may be found at 19 U.S.C. 3537, which provides the President representative to consult with the appropriate congressional committees and to publish detailed notices in the Federal Register whenever it is a party to any dispute settlement proceedings under the WTO. Furthermore, it should be noted that this notification provision could not be construed to be a mandatory requirement that are often imposed by Congress. As a general proposition, Congress is entitled to full access to information that is in the possession of the Executive Branch, subject to claims of executive privilege.

In addition to the general assertion that a mandatory notice and comment requirement would intrude on the President’s power over the “field of negotiation” in foreign affairs, the DOJ letter states that any potential requirement that the Administrator consult with private parties prior to consideration to comments received therefrom would also be constitutionally problematic. However, it is likewise difficult to ascertain how such a provision would necessarily impair the ability of the Executive Branch to carry out its core functions in this context. There is no indication that such a provision would be necessary to ensure the disclosure of sensitive information, or to require the inclusion of such individuals in the actual negotiation process. Rather, the notice and comment procedures are tailored to ensure that the public is kept informed regarding ongoing proceedings in this context, and is further afforded the opportunity to comment. Therefore, consideration to comments received therefrom would also be constitutionally problematic. The Supreme Court has established that in circumstances where “the separation of powers doctrine would hinge on the assertion that its administrative action would intrude on the core power of the Executive Branch over external affairs.”

By Mr. DURBIN (for himself, Mr. COCHRAN, and Mr. SALAZAR):

S. 2043. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide grants for mass evacuation exercises for urban and suburban areas and the execution of emergency response plans, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. DURBIN. 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. 2043

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 “Mass Evacuation Exercise Assistance Act of 2005”.

SEC. 2. MASS EVACUATION EXERCISES AND EXECUTION OF EMERGENCY RESPONSE PLANS.

Section 201 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131) is amended by adding at the end the following:

“(c) GRANTS FOR MASS EVACUATION EXERCISES FOR URBAN AND SUBURBAN AREAS AND THE EXECUTION OF EMERGENCY RESPONSE PLANS—

“(1) IN GENERAL.—The Secretary of Homeland Security shall make grants to States or units of local governments nominated by States, or to the States directly, for the development of plans and conduct of exercises for
the mass evacuation of persons in urban and suburban areas; and
"(B) execute plans developed under subparagraph (A), including the purchase and stockpiling of essential supplies for emergency routes and shelters.

(2) CONDITIONS.—As a condition for the receipt of assistance under paragraph (1)(A), the Secretary of Homeland Security may establish any guidelines and standards for the programs that the Secretary determines to be appropriate.

(3) REQUIREMENTS.—To the maximum extent practicable, a program assisted under paragraph (1)(A) shall incorporate the coordinated use of public and private transportation resources in the plans developed and the exercises carried out under the program.

(4) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—
"(A) IN GENERAL.—The Secretary of Defense may authorize the participation of members of the Armed Forces and the use of appropriate Department of Defense equipment and materials in an exercise carried out under a program assisted under this subsection.
"(B) REIMBURSEMENT FOR PARTICIPATION OF GUARD.—In the event the National Guard in State status participate in an exercise carried out under a program assisted under section 103 of this Act, the Secretary of Defense may, using amounts available to the Department of Defense, provide reimbursement to the State for the expenses incurred by the State for the service of the National Guard in State status to the extent of the participation of such members in such exercise.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $250,000,000 for each of fiscal years 2006 through 2010.

(6) MASS EVACUATION PLANS.—
"(1) REQUIREMENT.—Each State or unit of local government receiving a grant under subsection (e)(1) shall, in consultation with relevant local governments, develop and maintain detailed and comprehensive mass evacuation plans for each area in the jurisdiction of the State unit of local government.
"(2) PLAN DEVELOPMENT.—In developing the evacuation plans required under paragraph (1), each State unit or unit of local government shall, to the maximum extent practicable—
"(A) assist urban and suburban county and municipal governments in establishing and maintaining mass evacuation plans;
"(B) assist hospitals, nursing homes, other institutional adult congregate living facilities, group homes, and other health or residential care facilities that house individuals with special needs in establishing and maintaining mass evacuation plans; and
"(C) plans described in subparagraphs (A) and (B) and coordinate evacuation efforts with the entities described in subparagraphs (A) and (B).
"(3) PLAN CONTENT.—State, county, and municipal mass evacuation plans shall, to the maximum extent practicable—
"(A) establish incident command and decisionmaking processes;
"(B) identify primary and alternate escape routes;
"(C) establish procedures for converting 2-way traffic to 1-way evacuation routes, moving tollgates, ensuring the free movement of emergency vehicles, and deploying traffic management personnel and appropriate traffic signage;
"(D) maintain detailed inventories of drivers and public and private vehicles, including buses, vans, and handicapped-accessible vehicles, to be used in service of evacuation plans;
"(E) maintain detailed inventories of emergency shelter locations and develop the necessary agreements with neighboring jurisdictions to operate or use the shelters in the event of a mass evacuation;
"(F) establish procedures for informing the public of actions before, during, and after an evacuation, including using television, radio, print, and online media, land-based and cell-based technology, and vehicles equipped with public address systems;
"(G) identify primary and alternate staging locations for emergency responders;
"(H) identify maps in the ability to respond to different types of disasters, including the capacity to handle surges in demand for hospital, emergency medical, coroner, morgue, and mortuary services, decontaminations, and criminal investigations;
"(I) establish procedures to evacuate individuals with special needs, including individuals who are low-income, disabled, homeless, or elderly or who do not speak English;
"(J) establish procedures for evacuating animals that assist the disabled;
"(K) establish procedures for protecting property, preventing looting, and accounting for pets; and
"(L) ensure the participation of the private and nonprofit sectors.
"(4) UPDATING OF PLANS.—State, county, municipal, and private plans under this subsection shall be updated on a regular basis.
"(5) REPORT TO STATES.—The Secretary of Homeland Security shall assist States and local governments in developing and maintaining the plans described in subsection (f) by—
"(1) establishing and maintaining comprehensive best practices for evacuation planning, training, and execution;
"(2) developing assistance teams to travel to States and assist local governments in planning, training, and execution;
"(3) developing a curriculum based on the best practices established under paragraph (1);
"(4) providing the training curriculum developed under paragraph (3) to State and local officials;
"(5) maintaining a list of qualified government agencies, private sector consultants, and nonprofit organizations that can assist local governments in setting up evacuation plans; and
"(6) establishing and maintaining a comprehensive guide for State and local governments regarding—
"(A) the types of Federal assistance that are available to respond to emergencies; and
"(B) the steps necessary to apply for that assistance.
"(6) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this subsection, the Comptroller General of the United States shall conduct a study detailing—
"(1) any Federal laws that pose an obstacle to effective evacuation planning;
"(2) any State or local laws that pose an obstacle to effective evacuation planning; and
"(3) the political and economic pressures that discourage governors, county executives, mayors, and other officials from—
"(A) ordering an evacuation; or
"(B) conducting exercises for the mass evacuation of people.

By Mr. DeWINE:
S. 2046. A bill to establish a National Methamphetamine Information Clearinghouse to promote sharing information regarding successful law enforcement, treatment, and management, social services, and other programs related to the production, use, or effects of methamphetamine and grants available for such programs, and for the other purposes; to the Committee on the Judiciary.

Mr. DeWINE. Mr. President, today I am introducing a bill that would create a National Methamphetamine Information Clearinghouse (NMIC). This web-based source of information would promote sharing of "best practices" regarding law enforcement, treatment, environmental, social services, and other programs to combat the production, use, and effects of methamphetamine.

The purpose of the NMIC is to make available a one-stop shop, where all of the "best practices" in the fight against meth will be found—information from law enforcement, treatment-based organizations, social services and environmental agencies. It will be a website providing information that agencies and organizations submit, describing what worked and what did not work in their communities. The people who have had success with addressing meth and meth-related issues will be providing this information. Additionally, there will be information and links regarding available treatment options that provided them with some success, and environmental groups might post tips on cleaning up the toxic waste.

So, a landlord or hotel owner whose property was used as a meth lab and who wants to be able to rent out the property again, or the mother who wants to figure out if her child is a meth addict—and what to do if she is—they would all be able to find useful information on the site.

One of our challenges in the fight against meth is finding those who need assistance and connecting them with those who can help—and that is exactly what this clearinghouse can do. Many people and organizations that have had some success in controlling meth are more than willing to share the techniques they found that work, if only they knew who needed the information. And, there are those who are just starting to attack the meth problem in their communities and need guidance as to how to make that start an effective one. The NMIC can help bring those groups of people together and enhance everyone’s ability to fight the plague of meth.

NMIC will be housed under the auspices of the Department of Justice and

November 17, 2005
CONGRESSIONAL RECORD—SENATE
S13173
S13174  CONGRESSIONAL RECORD — SENATE  November 17, 2005

Over the last few decades, our medical researchers and scientists have developed increasingly sophisticated and high tech methods to diagnose and treat disease. Yet, this approach has caused us to lose sight of the need for preventing disease in the first place, with greater investment in basic public health interventions that too often get short shrift.

Today, I would like to bring it back to the basics and talk about environ-mental quality. The air we breathe, the food we eat, the houses in which we live, and the parks in which our children play—all of these factors contribute to our health. Environmental health, as defined by the World Health Organization, includes both the direct, damaging effects of chemicals, radiation, and some biological agents, and the effects on health and well-being of the broad physical, psychological, social, and aesthetic environment. The legislation that I have introduced today is an attempt to focus on that aspect of the environment that is the physical environment—the toxicants and pollutants that we may not notice, but are present in our everyday surroundings and taking a toll on our health.

The State of Illinois faces a number of environmental challenges, including high levels of lead poisoning. It is estimated that over 400,000 chil-
dren in this country suffer from ele-
V.5=, a blood lead level. Illinois also has the unfortunate distinction of ranking number 1 for children with elevated blood lead levels, 6,691 children have elevated blood lead levels, which is 50 percent higher than the number of chil-
dren in the second ranked city of Phila-
adelphia. Elevated blood levels are known to cause behavioral and learning problems, slowed growth, impaired hearing and damage to the kidneys, brain and bone marrow. Adults are not exempt from lead toxicity—poisoned and suffer pediatric illnesses, high blood pressure, digestive prob-
lems, nerve disorders, memory and concentra-
tion problems, and muscle and joint pain. Lead poisoning is completely preventable, and although our agencies have made good progress, we can and must do more to address this issue.

Obviously lead is only one of many toxicants and pollutants with which we must contend. Different areas of the country face unique challenges. States like California are grappling with the repercussions of air pollution, while Massachusetts and others in the North-
east are challenged with high levels of mercury in the water. As much as we know about these hazards, the effects of many chemicals are unknown.

Less than half of the chemicals pro-
duced in this country in quantities greater than 10,000 pounds have been tested for their potential human tox-
icity, with less than 10 percent studied to assess effects on development. This lack of knowledge has serious health repercussions—in children, environ-
mental toxins are estimated to cause...
Mr. OBAMA. Mr. President, I rise today to introduce the Lead Free Toys Act of 2005, which directs the Consumer Product Safety Commission to intensify efforts to reduce lead exposure for children.

The unfortunate reality for many children—particularly in low-income and minority communities—is the continued presence of high blood lead levels. Over 400,000 children in this country have elevated blood lead levels, with my own hometown of Chicago having the largest concentration of these children.

Lead is a highly toxic substance that can produce a range of health problems in young children, including IQ deficits, reading and learning disabilities, impaired hearing, reduced attention spans, hyperactivity, and damage to the kidneys, brain and bone marrow. Even low levels of blood lead in pregnant women, infants and children can lead to impaired cognitive abilities, fetal organ development and behavioral problems.

We know that lead poisoning is completely preventable. As the Nation has increased efforts to reduce environmental lead exposure, the number of children with high blood levels has steadily dropped. Restricting lead in gasoline and other leaded products will help reduce lead in soil and dust, but does not address the range of children exposed to lead in toys and other household products.

The Healthy Communities Act, which requires the Consumer Product Safety Commission and prescribed by regulation to classify any children's product containing lead as a banned hazardous substance under the Hazardous Substances Act, defines "children's product containing lead" as any consumer product marketed or used by children under age 6 that contains more than trace amounts of lead as determined by the Commission and prescribed by regulations. The Act also requires the Commission to issue standards for reducing lead contamination in lead in electronic devices.

This past August the Centers for Disease Control and Prevention (CDC) and the National Center for Environmental Health, about half of tested lunch boxes have unsafe levels of lead. The highly popular Angelina Anaconda lunch box was found to have 56,400 parts per million of lead, which is more than 90 times the 600 parts per million legal limit for lead in paint for children's products. Other lunch boxes showed levels of lead between two and twenty-five times the legal limit for lead paint in children's products. In most cases, the highest lead levels were found in the lining of lunch boxes, where lead could come into direct contact with food.

This problem is not limited to lunchboxes. One study found that 60 percent of more than 400 pieces of costume jewelry purchased at major department stores contain dangerous amounts of lead. From September 2003 through July 2004, there were 3 recalls of nearly 150 million pieces of toy jewelry because of toxic levels of lead.

The Consumer Product Safety Commission is the continuing responsibility of the Federal Government to provide intense Federal attention and resources to clean up and address the health needs of the nation's most blighted communities. Environmental research has included addressing community monitoring and health tracking initiatives. Finally, the Act promotes environmental health workforce programs at the CDC and the NIH.

By Mr. DOMENICI (for himself, Mr. DORGAN, and Mr. TALENT): S. 2048. A bill to improve the security of the United States borders and for other purposes; to the Committee on the Judiciary.

Mr. DOMENICI. Mr. President, I rise today with my friend from North Dakota, Senator DORGAN, and my friend from Michigan, Senator REUSS, to introduce a bill of critical importance to the security of our borders: the Border Modernization and Security Act of 2005.

Securing our borders is the first necessary step towards immigration reform, and I believe the legislation I am introducing makes an enormous leap in the right direction.

Our bill builds upon legislation we introduced in the last Congress to improve our port of entry infrastructure as well as a lot of good ideas proposed by other Senators in this Congress, and adds some provisions that I think are important to improving our border security and immigration reform effort.

The Border Modernization and Security Act increases the number of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) agents each by 1000 for each of fiscal years 2007 through 2011. These personnel are necessary to improve our enforcement at ports of entry as well as within the United States, and increasing the number of these employees goes hand in hand with our recent efforts to increase the number of

up to 35 percent of asthma cases, up to 10 percent of cancer cases, and up to 20 percent of neurobehavioral disorders. Overall, an estimated 25 percent of preventable illnesses worldwide can be attributed to poor environmental quality. Illnesses can range from short disease, asthma, birth defects, infertility, and obesity are all caused or exacerbated by toxicants or pollutants in the environment.

Minority Americans are significantly more likely to be affected than other Americans. Some studies have found that 3 of every 5 African- and Latino Americans live in communities with one or more toxic waste sites. Communities with existing incinerators, and that are proposed for new incinerators, have substantially higher numbers of minority residents. Minority Americans are already plagued with higher rates of death and disease, and fewer health resources in their neighborhoods. As we focus our efforts on environmental health, we must be cognizant that some groups are disproportionately affected by federal policies and decision-making, and deserve special attention.

The Healthy Communities Act of 2005 addresses environmental health concerns in a comprehensive fashion, building upon many of the successful federal initiatives and filling in gaps in other laws. The bill establishes an independent advisory committee to provide recommendations across all relevant Federal agencies. It asks the CDC and the EPA to assess and report the environmental public health, and each State. The Health Action Zone Program will provide intense Federal attention and resources to clean up and address the health needs of the nation's most blighted communities. Environmental research has included addressing community monitoring and health tracking initiatives. Finally, the Act promotes environmental health workforce programs at the CDC and the NIH.

The Healthy Communities Act of 2005 will raise national attention on the importance of the environment, and its relationship to good health. As we work to make our future stronger for our communities, let us look to our past. The National Environmental Policy Act (NEPA) of 1969, Congress wrote that it is the continuing responsibility of the Federal Government to assure that all Americans live in "safe, healthful and aesthetically and culturally pleasing surroundings." Almost forty years later, our responsibility to the American people continues. I encourage all of my colleagues to join me and support passage of this bill.

By Mr. OBAMA:

S. 4048. A bill to direct the Consumer Product Safety Commission to classify certain children's products containing lead to be banned hazardous substances; to the Committee on Commerce, Science, and Transportation.

Mr. OBAMA. Mr. President, I rise today to introduce the Lead Free Toys Act of 2005, which directs the Consumer Product Safety Commission to intensify efforts to reduce lead exposure for children.

The unfortunate reality for many children—particularly in low-income and minority communities—is the continued presence of high blood lead levels. Over 400,000 children in this country have elevated blood lead levels, with my own hometown of Chicago having the largest concentration of these children.

Lead is a highly toxic substance that can produce a range of health problems in young children, including IQ deficits, reading and learning disabilities, impaired hearing, reduced attention spans, hyperactivity, and damage to the kidneys, brain and bone marrow. Even low levels of blood lead in pregnant women, infants and children can lead to impaired cognitive abilities, fetal organ development and behavioral problems.

We know that lead poisoning is completely preventable. As the Nation has increased efforts to reduce environmental lead exposure, the number of children with high blood levels has steadily dropped. Restricting lead in gasoline and other leaded products will help reduce lead in soil and dust, but does not address the range of children exposed to lead in toys and other household products.

The Healthy Communities Act, which requires the Consumer Product Safety Commission and prescribed by regulation to classify any children's product containing lead as a banned hazardous substance under the Hazardous Substances Act, defines "children's product containing lead" as any consumer product marketed or used by children under age 6 that contains more than trace amounts of lead as determined by the Commission and prescribed by regulations. The Act also requires the Commission to issue standards for reducing lead contamination in lead in electronic devices.

This past August the Centers for Disease Control and Prevention (CDC) and the National Center for Environmental Health, about half of tested lunch boxes have unsafe levels of lead. The highly popular Angelina Anaconda lunch box was found to have 56,400 parts per million of lead, which is more than 90 times the 600 parts per million legal limit for lead in paint for children's products. Other lunch boxes showed levels of lead between two and twenty-five times the legal limit for lead paint in children's products. In most cases, the highest lead levels were found in the lining of lunch boxes, where lead could come into direct contact with food.

This problem is not limited to lunchboxes. One study found that 60 percent of more than 400 pieces of costume jewelry purchased at major department stores contain dangerous amounts of lead. From September 2003 through July 2004, there were 3 recalls of nearly 150 million pieces of toy jewelry because of toxic levels of lead.

The Consumer Product Safety Commission is the continuing responsibility of the Federal Government to provide intense Federal attention and resources to clean up and address the health needs of the nation's most blighted communities. Environmental research has included addressing community monitoring and health tracking initiatives. Finally, the Act promotes environmental health workforce programs at the CDC and the NIH.

By Mr. DOMENICI (for himself, Mr. DORGAN, and Mr. TALENT): S. 2048. A bill to improve the security of the United States borders and for other purposes; to the Committee on the Judiciary.

Mr. DOMENICI. Mr. President, I rise today with my friend from North Dakota, Senator DORGAN, and my friend from Michigan, Senator REUSS, to introduce a bill of critical importance to the security of our borders: the Border Modernization and Security Act of 2005.

Securing our borders is the first necessary step towards immigration reform, and I believe the legislation I am introducing makes an enormous leap in the right direction.

Our bill builds upon legislation we introduced in the last Congress to improve our port of entry infrastructure as well as a lot of good ideas proposed by other Senators in this Congress, and adds some provisions that I think are important to improving our border security and immigration reform effort.

The Border Modernization and Security Act increases the number of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) agents each by 1000 for each of fiscal years 2007 through 2011. These personnel are necessary to improve our enforcement at ports of entry as well as within the United States, and increasing the number of these employees goes hand in hand with our recent efforts to increase the number of
would work with the Department of immigration projects that would enable
improvement of Federal, State and local entities involved at our borders to ensure that everyone who plays a role in border security is consulted about the plan.

The Border Modernization and Security Act would also modernize homeland security along the United States’ borders by implementing technology demonstration programs to test and evaluate new port of entry and border security technologies. Because equipment and technology alone will not solve the security problems on our border, these test sites will also house facilities to provide the necessary training to personnel who must implement and use these technologies under realistic conditions.

We must also improve the enforcement of existing immigration laws. Our bill authorizes funds for the Department of Homeland Security to expand its Expedited Removal Procedures so it can remove non-citizen Mexican illegal aliens who have spent less than 14 days in the US and who are apprehended within 100 miles of the international border to the alien’s country of origin. We also allow DHS to develop biometric entry and exit data system at our land ports of entry so we can more accurately keep track of who is entering and leaving the US.

In order for the Department to more easily identify and remove unauthorized aliens who commit crimes under State law and are held in State and local prisons, we authorize the expansion of DHS’ Institutional Removal Program. Because of the burden these aliens place on our State and local prisons, DHS will be responsible for reimbursing prisons that detain an alien after the alien has completed his prison sentence in order to effectuate the alien’s transfer to federal custody.

Along the same line, the Border Modernization and Security Act provides additional assistance to States that are impacted by unauthorized aliens who commit crimes. I know first hand the impact such aliens have on our State and local government agencies, judges and courts. Our bill reauthorizes the State Criminal Alien Assistance Program to help States with the costs of incarcerating these aliens. Additionally, the bill allows for the reimbursement of State and local costs of processing illegal aliens through the criminal justice system and creates a new grant program for State, local, and Indian tribe law enforcement agencies who incur costs related to border security activities.

I believe that these measures are an important part of addressing this nation’s homeland security needs, and I am pleased to introduce this bill today with Senators DORGAN and TALENT.

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. 2499

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 “Border Security and Modernization Act of 2005”.

SEC. 2. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term “Department” means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Homeland Security.

(3) STATE.—Except as otherwise provided, the term “State” has the meaning given in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

SEC. 3. CONSTRUCTION.

Nothing in this Act may be construed to require law enforcement personnel of a State or political subdivision of a State to—

(1) report the identity of a victim of, or a witness to, a criminal offense to the Secretary for immigration enforcement purposes;

(2) arrest such victim or witness for a violation of the immigration laws of the United States; or

(3) enforce the immigration laws of the United States.

TITLE I—BORDER PROTECTION

Subtitle A—Personnel and Training

SEC. 101. PERSONNEL OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—

(1) CUSTOMS AND BORDER PROTECTION OFFICERS.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of positions for full-time active duty officers of the Bureau of Customs and Border Protection of the Department for such fiscal year.

(2) IMMIGRATION AND CUSTOMS ENFORCEMENT INSPECTORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3774) is amended by striking “800” and inserting “1000”.

(b) INVESTIGATIVE PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by paragraph (2), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of positions for investigative personnel within the Department to investigate alien smuggling and immigration status violations for such fiscal year.

(c) LEGAL PERSONNEL.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of positions for attorneys in the Office of General Counsel of the Department who represent the Department in immigration matters for such fiscal year.

(d) WAIVER OF PTE LIMITATION.—The Secretary is authorized to waive any limitation on the number of full-time equivalent personnel employed by the Department to fulfill...
the requirements of paragraph (1) and the amendment made by paragraph (2).

(b) TRAINING.—The Secretary shall provide appropriate training for the agents, officers, inspectors, and support staff of the Department on an ongoing basis to utilized new technologies and techniques to ensure that the proficiency levels of such personnel are capable of protecting the international borders of the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this section.

SEC. 102. PARTICIPATION OF THE DEPARTMENT OF JUSTICE AND OTHER ATTORNEYS.

(a) LITIGATION ATTORNEYS.—During each of the fiscal years 2007 through 2011, the Attorney General shall be subject to the availability of appropriations for such purpose, increase by not less than 50 the number of positions for attorneys in the Office of Immigration Litigation of the Department of Justice for such fiscal year.

(b) UNITED STATES ATTORNEYS.—During each of the fiscal years 2007 through 2011, the Attorney General shall be subject to the availability of appropriations for such purpose, increase by not less than 50 the number of United States Attorneys to litigate immigration matters in the Federal courts for such fiscal year.

(c) UNITED STATES MARSHALS.—During each of the fiscal years 2007 through 2011, the Attorney General shall be subject to the availability of appropriations for such purpose, increase by not less than 50 the number of Deputy United States Marshals to investigate criminal immigration matters.

(d) IMMIGRATION JUDGES.—During each of the fiscal years 2007 through 2011, the Attorney General shall be subject to the availability of appropriations for such purpose, increase by not less than 50 the number of immigration judges for such fiscal year.

(e) DEFENSE ATTORNEYS.—During each of the fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of attorneys in the Federal Defender Program for such fiscal year.

(f) TRAINING APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this section, including the hiring of necessary support staff.

SEC. 103. USE OF THE NATIONAL GUARD FOR BORDER PROTECTION ACTIVITIES.

(a) IN GENERAL.—Section 112 of title 32, United States Code, is amended—

(1) by striking “drug interdiction and counter-drug activities” each place it appears and inserting “drug interdiction, counter-drug, and border activities”; and

(2) in subparagraphs (A) and (B) of subsection (a)(2), drug interdiction or counter-drug activities” each place it appears and inserting “drug interdiction, counter-drug, or border activities”. [Section 112 of title 32, United States Code.]—Subsection (h)(1) of such section is amended to read as follows—

“(1) The term ‘drug interdiction, counter-drug, and border activities’, with respect to the National Guard of a State, means the use of National Guard personnel in—

“(A) drug interdiction and counter-drug law enforcement activities, including drug demand reduction activities authorized by the law of the State and requested by the Governor of the State for or by the Attorney General for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this section.

SEC. 111. MODIFICATION OF BORDER INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) COMMISSIONER.—The term “Commissioner” means the Commissioner of the Bureau of Customs and Border Protection of the Department.

(2) MAQUILADORA.—The term “maquiladora” means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term “northern border” means the international border between the United States and Canada.

(4) SOUTHERN BORDER.—The term “southern border” means the international border between the United States and Mexico.

(b) BORDER TECHNOLOGIES, ASSETS, AND CONSTRUCTION.—

(1) ACQUISITION.—The Secretary shall procure technologies necessary to support the mission of the Department to achieve operational control of the international borders of the United States. In determining what technologies to procure, the Secretary shall consult with the Secretary of Defense and the head of the National Laboratories and Technology Centers of the Department of Energy.

(2) CONSTRUCTION OF BORDER CONTROL FACILITIES.—The Secretary shall construct roads, acquire vehicle barriers, and construct fencing necessary to support such mission.

(c) PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.—

(1) REQUIREMENT TO UPDATE.—In order to carry out the mission of the Department to achieve operational control of the international borders of the United States, not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Report prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the requirements relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of 106th Congress, 1st session (House of Representatives, 106th Congress, 1st session (House of Representatives). Rep. No. 106-319, page 67) and submit such updated study to Congress.

(2) CONSULTATION.—In preparing the updated report required by paragraph (1), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner of Customs and Border Protection.

(3) CONTENT.—Each updated study required by paragraph (1) shall—

(A) identify port of entry infrastructure and technology improvements, if any, that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(B) include the projects identified in the National Land Border Security Plan required by subsection (d); and
shall carry out a technology demonstration program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train the personnel who will utilize the demonstration program. The Commissioner of the Bureau of Customs and Border Protection shall oversee the program in consultation and cooperation with other divisions of the Department.

(2) Technology and Facilities.—

(a) Technology Tested.—Under the demonstration program, the Secretary shall test existing and new technologies that enhance border security, including those related to communications, sensory devices, personal detection, and decision support.

(b) Facilities Developed.—At a demonstration site selected pursuant to paragraph (3)(B), the Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including cross-training among agencies, advanced law enforcement training, and equipment orientation.

(c) Relationship with Other Agencies.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize the demonstration site described in this subsection to test technologies that enhance border security, including those related to communications, sensory devices, personal detection, and decision support.

(4) Report.—

(a) Requirement.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report on the activities carried out at the demonstration site under the technology demonstration program established under this subsection.

(b) Content.—Each report submitted pursuant to subparagraph (A) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Department.

(h) International Agreements.—Funds authorized in this Act may be used for the implementation of international agreements described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this Act.

(i) Authorization of Appropriations.—There are authorized to be appropriated the following:

(1) For each of the fiscal years 2007 through 2011, $100,000,000 to carry out subsection (c).

(2) For each of the fiscal years 2007 through 2011, such sums as may be necessary to carry out paragraph (1) of subsection (c).

(3) For each of the fiscal years 2007 through 2011, $10,000,000 to carry out subsection (d).

(4) For each of the fiscal years 2007 through 2011, such sums as may be necessary to carry out subsection (d).

(5) For fiscal year 2007, $30,000,000 to carry out paragraph (1) of subsection (e);

(6) For each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out paragraph (2) of subsection (e);

(7) For fiscal year 2007, $5,000,000 to carry out paragraph (2) of subsection (e); and

(8) For each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out such paragraphs.
than $10,000,000 may be expended for tech-
nology demonstration program activities at
any 1 port of entry demonstration site in any
such fiscal year.
(2) by striking the fiscal years 2007 through
2011, $10,000,000 to carry out subsection (g).

SEC. 112. DETENTION SPACE AND REMOVAL CA-
PACITY.
Section 502(a) of the Intelligence Reform
and Terrorism Protection Act of 2004 (Public
Law 108-458; 118 Stat. 3734) is amended by
striking “8,000” and inserting “15,000”.

SEC. 113. DECREASE FEDERAL DETENTION
SPACE AND THE UTILIZATION OF INTERNAL
FACILITIES IDENTIFIED FOR USE.
(a) CONSTRUCTION OR ACQUISITION OF DE-
TENTION FACILITIES.—
(1) IN GENERAL.—The Secretary shall con-
struct or acquire additional detention facility-
ies in the United States.
(2) DETERMINATION OF LOCATION.—The loca-
tion of any detention facility built or ac-
quired in accordance with this subsection
shall be determined by the Deputy Assistant
Director of the Office of Detention and Re-
moval Operations within the Bureau of Im-
migration and Customs Enforcement of the
Department.
(3) USE OF FEDERAL FACILITIES IDENTIFIED
FOR CLOSURE.—In acquiring detention facili-
ties under this section, the Secretary shall,
to the maximum extent practical, re-
quire that the transfer of appropriate portions
of military installations approved for closure
or real property from any other Federal facilities
identified for closure.
(b) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated such sums
as may be necessary to carry out this section.

SEC. 114. ALTERNATIVES TO DETENTION.
The Secretary shall implement demonstra-
tion projects in States located along the in-
ternational border between the United States
and Canada or along the international border
between the United States and Mex-
ico to study the effectiveness of alternatives
to the detention of aliens, including elec-
tronic monitoring devices and intensive su-
pervision programs, that ensure that alien’s
appearance at court and compliance with re-
moval orders.

Subtitle C—Grants for States

SEC. 121. BORDER LAW ENFORCEMENT GRANTS.
(a) LAW ENFORCEMENT AGENCY DEFINED.—
In this section, the term “law enforcement
agency” means a Tribal, State, or local law
enforcement agency.
(b) AUTHORITY TO AWARD GRANTS.—The Sec-
retary is authorized to award grants to eligi-
ble law enforcement agencies to pro-
vide assistance with costs associated with
State border security efforts, including ef-
forts to combat criminal activity that occurs
in the jurisdiction of such agency by virtue of
such agency’s proximity to an inter-
national border of the United States.
(c) ELIGIBLE GRANT RECIPIENTS.—The Sec-
retary shall award grants under subsection (b) on
a competitive basis, considering criteria includ-
ing—
(1) the law enforcement agency’s distance
from the border; (2) the extent to which such
agencies share a border with other agencies;
and
(3) the criminal caseload of the law
enforcement agency, based upon the number of
felony criminal cases filed per judge in the
United States district court located in the
district that the law enforcement agency has
jurisdiction over, with priority given to
those with higher caseloads.
(d) USE OF GRANTS.—Grants awarded under
subsection (b) shall be used to provide addi-
tional resources for a law enforcement agen-
cy to address criminal activity occurring
near an international border of the United States,
including—
(1) law enforcement technologies;
(2) equipment such as police-type vehicles,
all terrain vehicles, firearms, sensors, cam-
eras, and lighting; and
(3) such other resources as are available to
assistance with costs associated with
the law enforcement agency.
(e) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated
$500,000,000 for each of the fiscal years 2007
through 2011 to carry out this section.

TITLE II—IMMIGRATION PROVISIONS

SEC. 201. EXPANDED EXCLUSION BETWEEN PORTS
OF ENTRY.
(a) IN GENERAL.—Section 235 of the Immi-
gration and Nationality Act (8 U.S.C. 1225) is
amended—
(1) in subsection (b)(3)(A), by striking “the officer” and inser-
ting “a supervisory officer”;
and
(2) in subsection (c)(1), by striking “4 years” and inser-
ting “4 years”.
(b) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated
$20,000,000 for each of the fiscal years 2007
through 2011 to carry out the amendments
made by this section.

SEC. 202. CANCELLATION OF VISAS.
Section 212 of the Immigration and Nationality
Act (8 U.S.C. 1182) is amended—
(1) in paragraph (1), by inserting “and any
other nonimmigrant visa issued by the
United States to a alien residing in all States, based
on the most recent decennial census; and
(5) the percentage of undocumented alien
approvals in the law enforcement agen-
cy’s State for that fiscal year compared to the
total of such approvals for all such States
for that fiscal year.
(3) Such funds shall be determined by the Deputy Assistant
Director of such agency.
(4) The Secretary of Homeland Security shall provide employees of the De-
partment of Homeland Security with comprehensive training on the procedures
authorized under this subsection.
(b) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated
$500,000,000 for each of the fiscal years
2007 through 2011 to carry out the amendments
made by this section.

SEC. 203. BIOMETRIC ENTRY-EXIT SYSTEM.
(a) GROUNDS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality
Act (8 U.S.C. 1182) is amended—
(1) in subsection (a)(7), by adding at the end the following:
(C) Writs of INADMISSIBILITY OF BIOMETRIC DATA.—Any alien who fails to comply with a
lawful request for biometric data is inadmissible.”;
and
(2) in subsection (d), by inserting after paragraph (1) the following:
“(2) The Secretary of Homeland Security may waive the application of subparagraph
(1) with respect to an individual alien, or a class of aliens, at the discretion of the
Secretary.”.
(b) COLLECTION OF BIOMETRIC DATA FROM
ALIENS DEPARTING THE UNITED STATES.—Sec-
tion 215 of the Immigration and Nationality
Act (8 U.S.C. 1185) is amended—
(1) by redesignating subsection (c) as subsection (g);
and
(2) by inserting after subsection (b) the fol-
lowing:
“(c) AUTHORIZATION TO COLLECT BIOMETRIC
DATA.—In carrying out inspections under sub-
section (b), the Secretary is authorized to
collect biometric data from—
(A) any applicant for admission or alien
seeking to transit through the United States;
or
(B) any lawful permanent resident who
is—
(i) entering the United States; and
(ii) not regarding as seeking an admission
into the United States pursuant to section
10(a)(15)(C).
(d) COLLECTION OF BIOMETRIC DATA FROM
ALIEN CREWMAN.—Section 232 of the Immi-
gration and Nationality Act (8 U.S.C. 1232) is
amended by inserting “immigration officers”
authorizing the collection of biometric data
from an alien crewman seeking admission to
land temporarily in the United States.” after
“title”.
(e) IMPLEMENTATION.—Section 7208 of the 9/
11 Commission Implementation Act of 2004 (8
U.S.C. 1365b) is amended in subsection (1)—
(1) by striking “There are authorized” and inser-
ting “There are authorized to be appro-
prated such sums as may be necessary for
each of fiscal years 2008, 2009, and 2010 to
implement the automated biometric entry
and exit data system at all land border ports
of entry.”.

SEC. 204. REIMBURSEMENT FOR STATES.
(a) ASCENSION COSTS.—Section 241(i)(5) of
the Immigration and Nationality Act (8
U.S.C. 1231(i)(5)) is amended to read as fol-
loows:
“(b) There are authorized to be appro-
prated to carry out this subsection—
(A) $750,000,000 for fiscal year 2007;
(B) $850,000,000 for fiscal year 2008; and
(C) $950,000,000 for each of the fiscal years
2009 through 2011.”.
(b) REIMBURSEMENT FOR COSTS ASSOCIATED
WITH PROCESSING CRIMINAL ILLEGAL ALIENS.
(1) IN GENERAL.—The Secretary shall reimb-
urse States and units of local government
for costs associated with processing illegal aliens
through the criminal justice system, including—
(A) indigent defense;
(b) criminal prosecution;
(C) autopsies;
(D) translators and interpreters; and
(E) courts costs.
(2) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated
$500,000,000 for each of the fiscal years
2007 through 2011 to carry out paragraph (1).

SEC. 205. COMMISSION BACKGROUND AND
SENIOR LAWYER CURRICULUM.
Section 103 of the Immigration and Nationality
Act (8 U.S.C. 1103) is amended by add-
ing—
(1) “Notwithstanding any other provision
of law, the Secretary of Homeland Security,
the Attorney General, or any court may not—

(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence; or

(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

(3) issue, or continue in his discretion require that such grant by the Attorney General, the Secretary, or any court.

until such background and security checks as the Secretary in his discretion require have been completed to the satisfaction of the Secretary.

SEC. 206. RELEASE OF ALIENS FROM NON-CONTINUOUS COUNTRIES

Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended by inserting the following:

"(2) the Secretary of Homeland Security, and imprisoned not more than 40 years;"

There are authorized to be appropriated such sums as may be necessary to reimburse a

TITLE IV—REMOVAL AND VIOLATION TRACKING

SEC. 401. INSTITUTIONAL REMOVAL PROGRAM.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program of the Department to—

(A) identify removable criminal aliens in Federal and State correctional facilities; and

(B) ensure that such aliens are not released into the community; and

(2) EXPANSION.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall expand the Institutional Removal Program to 25 States.

(3) STATE PARTICIPATION.—The appropriate officials of each State in which the Secretary is operating the Institutional Removal Program should—

(A) cooperate with Federal officials carrying out the Institutional Removal Program;

(B) expeditiously and systematically identify criminal aliens in the prison and jail populations of the State; and

(C) promptly convey the information described in subparagraph (a) to the appropriate officials carrying out the Institutional Removal Program.

(b) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the participation of the States in the Institutional Removal Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated sums as may be necessary to carry out the expanded Institutional Removal Program authorized under subsection (a).

SEC. 402. AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.

(a) IN GENERAL.—Law enforcement officers of a State or political subdivision of a State are authorized to—

(1) hold an illegal alien for a period of up to 14 days after the alien has completed the alien’s State or local prison sentence in order to effectuate the alien’s removal to Federal custody when the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State or local prison sentence to be detained by an appropriate prison, or jail, for the duration of the sentence or for up to 14 days after the completion of the sentence, in order to effectuate the alien’s removal to Federal custody.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall reimburse a State or political subdivision of a State for all reasonable expenses incurred by the State or the political subdivision for the detention of an alien as described in subsection (a)

(2) COST COMPUTATION.—The amount of reimbursement provided for costs incurred carrying out subsection (a) shall be determined pursuant to a formula determined by the Secretary.

(c) TECHNOLOGY USAGE.—Technology such as videoconferencing shall be used to the maximum extent possible in order to make the Institutional Removal Program available in remote locations. Mobile access to Federal databases of aliens and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to reimburse a
State or political subdivision of a State for the detention of an illegal alien pursuant to subsection (b).

SEC. 403. USE OF THE NATIONAL CRIME INFORMATION CENTER DATABASE TO TRACK VIOLATIONS OF IMMIGRATION LAW.

(a) PROVIDING INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall enter the information described in paragraph (1) shall be promptly reentered into the National Crime Information Center in accordance with paragraph (1) of this section shall be promptly removed.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking “and” at the end;

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

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

“(4) acquire, collect, classify, and preserve records of the immigration laws of the United States, regardless of whether the alien has received notice of the violation or the alien has already been removed; and”.

Mr. DORGAN. Mr. President, I am pleased to join Senator DOMENICI in introducing the Border Security and Modernization Act of 2005.

Senator DOMENICI and I represent border States, but the bill we are introducing today is not one of merely regional concern. Border security is an issue that affects our country as a whole. We cannot have homeland security without strong and effective border security.

The Administration has signaled that it wants to have a vigorous debate on border security and immigration issues. New goals of the Border security is an issue that affects our country as a whole. We cannot have homeland security without strong and effective border security.

I have been working on border security long before the attacks of September 11, 2001. The Northern border is over 4,000 miles long. In the past, almost all of our resources in this country were targeted at the Southern border. It used to be that we had ports of entry at the Northern border where, at night, the only barrier was an orange rubber cone in the middle of the road. The polette people crossing at night actually stopped and removed the cone before they came across the border. Those who were not so polite would run over it at 60 miles an hour.

In 2001, before the September 11 attacks, I proposed something called the Northern Border Initiative. That bill added hundreds of Customs officers to the Northern border, and it became law. I also worked to replace the orange cones with hardened gates. But we clearly have to do much more.

The legislation we are introducing today, which Senator DOMENICI has described in detail, would devote significant new resources to our border security. Among other things, this legislation would authorize the hiring of an additional 10,000 Border Patrol, Immigration and Customs Enforcement officers a year for the next five years. It would also authorize the Department of Homeland Security to work with States to use thevoluntary force of retired law enforcement officers as resources to help monitor the borders. And it would have the Federal Government reimburse State governments for the cost of detaining undocumented aliens while decisions are made regarding their possible deportation.

This bipartisan proposal is not about immigration. It’s about border security. We need to do a better job of securing our borders, and we need to do so on an urgent basis. We hope our colleagues will join us, on a bipartisan basis, in supporting this legislation.

By Ms. SNOWE (for herself and Ms. CANTWELL).

S. 2050. A bill to establish a commission on inland waters policy; to the Committee on Commerce, Science, and Transportation.

I rise today to introduce legislation that creates a national commission on inland waters policy to support the long-term sustainability of our water resources. A 2001 National Academy of Sciences report found that U.S. Federal policies and research lack the coordination necessary to respond to increasing future demands. An inland waters policy commission should be viewed as an attempt to make sure our Nation’s clean water laws are achieving their intended goals. Water policies have been very contentious in many parts of the Nation and have oftentimes pitted people and their livelihoods against preservation concerns. Only by developing greater water research and coordinating a comprehensive national policy will the conflict between anthropogenic needs and water preservation be overcome.

Mr. Chairman, in April of this year, the GAO published a report with findings that the administration is not addressing the study of water resources, agriculture, energy, biological diversity and other areas in relation to climate change as mandated under the Global Change Research Act. None of those topics has been addressed in 21 studies that the Bush administration plans to publish by September 2007, the GAO report found, even though fairly robust climate models are now making predictions about changes in rainfall globally and nationally as the climate changes. Water policy currently has no intelligent mechanism for using this information. The GAO report points out that a comprehensive study of the Nation’s water resources is needed.

The bill authorizes an appropriation of $8.5 million until expended. By comparison, the U.S. Commission on Ocean Policy appropriation was set at a total of up to $6 million for fiscal years 2001 and 2002. I hope my colleagues will take a closer look at this bill and see the great value in supporting the long-term sustainability of our Nation’s water resources.

I thank the Chair.

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

S. 2051. A bill to extend eligibility for certain Federal benefits to citizens of the Freely Associated States; to the Committee on Finance.

Mr. AKAKA. Mr. President, I rise today to introduce legislation with my senior colleague from Hawai’i, Senator DAN INOUYE, to provide certain Federal benefits to citizens of the Freely Associated States; to the Committee on Finance.
bursement of these costs. It is time for the Federal Government to take up some of the financial responsibility that until now has been carried by the State of Hawaii, CNMI, Guam, and American Samoa by restoring public benefits to FAS citizens.

This bill would also provide eligibility for FAS citizens for nonemergency Medicaid. FAS citizens lost many of their public benefits as a result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, including Medicaid coverage. FAS citizens were previously eligible for Medicaid as aliens permanently residing under color of law in the United States.

After the enactment of welfare reform, the State of Hawaii could no longer claim Federal matching funds for services rendered to FAS citizens. Yet the State of Hawaii, Guam, American Samoa, and the CNMI have continued to meet the health care needs of FAS citizens. The State of Hawaii has used its resources to provide Medicaid services to FAS citizens.

In 2003 alone, the State spent approximately $9.77 million to provide Medicaid services without receiving any Federal matching funds. This represents a net cost to the Commonwealth from $6.75 million in State fiscal year 2002. Furthermore, the trend in the need for health care services among FAS citizens continues to rise. During fiscal year 2002, the number of individuals served in the State of Hawaii's Medicaid program grew from 3,291 to 4,818 people based on the average monthly enrollment. This is an increase of 46 percent.

This bill would also provide eligibility for FAS citizens residing in the United States to participate in the Temporary Assistance for Needy Families and Supplemental Security Income programs. According to Hawaii's attorney general, financial assistance in the form of Temporary Assistance to Needy Families, TANF, Program, a State program, provided $1.1 million to FAS citizens in State fiscal year 2003. This continues an upward trend from $4.5 million in State fiscal year 2002. This total includes funds that go to the General Assistance Program, which supports individuals and couples with little or no income and who have a temporary, incapacitating medical condition; the aged, blind, and disabled; and individuals with little or no income who are not eligible for federally-funded Supplemental Security Income; and the State’s TANF Program that assists other needy families who are not eligible for federal funding under the Temporary Assistance to Needy Families program. The financial assistance that the State of Hawaii provides to FAS citizens in the form of TANF is a great support to those families attempting to achieve economic stability, but it has a significant financial impact on the State’s budget.

The bill would also provide eligibility for the Food Stamp Program. Mr. President, the Food Stamp Program serves as the first line of defense against hunger. It is the cornerstone of the Federal food assistance program and provides crucial support to needy households and those making the transition from welfare to work. We have partially addressed the complicated issue of alien eligibility for public benefits such as food stamps, but again, I must say it is just partial. Not only should all legal immigrants receive these benefits, but so should citizens of the FAS. Exclusion of FAS citizens from Federal, State, or local public benefits or programs is an unintended and misguided consequence of the welfare reform law. We allow certain legal immigrants eligibility in the program. Yet FAS citizens, who are not considered immigrants but who are required to up to for the Selective Service if they are residing in the United States are ineligible to receiving food stamps. This bill corrects this inequity.
Allowing Compact migrants to be served with Federal funds under the TANF, SSI, Food Stamps, and Medicaid programs would tremendously assist the State of Hawaii. I appreciate your leadership in this area and look forward to continuing to work with you on your legislative efforts to assist Compact migrants in Hawaii.

Sincerely,

LILLIAN B. KOLLER, Esq.
Director

CONGRESSIONAL RECORD
— SENATE RESOLUTION 318—DESIGNATING NOVEMBER 27, 2005, AS “DRIVE SAFER SUNDAY”

Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas motor vehicle travel is the primary means of transportation in the United States;

Whereas everyone on the roads and highways must drive more safely to reduce deaths and injuries resulting from motor vehicle accidents;

Whereas the death of almost 43,000 people a year in more than 6 million highway crashes in America has been called an epidemic by Transportation Secretary Norman Mineta;

Whereas according to the National Highway Transportation Safety Administration, wearing a seat belt saved 15,434 lives in 2004; and

Whereas the Sunday after Thanksgiving is the busiest highway traffic day of the year:

Now, therefore, be it

Resolved, That the Senate—

(1) encourages—

(A) high schools, colleges, universities, administrators, teachers, primary schools, and secondary schools to launch campus-wide educational campaigns to urge students to be careful about safety when driving;

(B) national trucking firms to alert their drivers to be especially focused on driving safely during the heaviest traffic day of the year, and to publicize the importance of the day using Citizen’s band (CB) radios and in truck stops across the Nation;

(C) clergy to remind their members to travel safely when attending services and gatherings;

(D) law enforcement personnel to remind drivers and passengers to drive particularly safely on the Sunday after Thanksgiving; and

(E) everyone to use the Sunday after Thanksgiving as an opportunity to educate themselves about highway safety:—

(2) designates November 27, 2005, as “Drive Safer Sunday”.

SENATE RESOLUTION 319—COMMEMORATING RELIEF EFFORTS IN RESPONSE TO THE EARTHQUAKE IN SOUTH ASIA AND URGING A COMMITMENT BY THE UNITED STATES AND THE INTERNATIONAL COMMUNITY TO HELP REBUILD CRITICAL INFRASTRUCTURE IN THE AFFECTED AREAS

Ms. MIKULSKI submitted the following resolution; which was referred to the Committee on Foreign Relations:

Whereas on October 8, 2005, a magnitude 7.6 earthquake struck Pakistan, India, and Afghani斯坦;

Whereas the epicenter of the earthquake was located near Muzaffarabad, the capital of Pakistan-administered Kashmir, and approximately 60 miles north-northeast of Islamabad, with aftershocks and landslides continuing to affect the region;

Whereas the most affected areas are the North West Frontier Province, Northern Punjab, Pakistan-administered Kashmir, and Indian-administered Kashmir;

Whereas more than 75,000 people have died, nearly 70,000 are injured, and approximately 2,000,000 people are displaced as a result of the earthquake, and, according to the Executive Director of the United Nations Children’s Fund (UNICEF), 17,000 of the dead are children;

Whereas the United States has pledged a total of $156,000,000 to provide assistance in the affected countries, with $30,000,000 to be used for humanitarian relief, $50,000,000 to be used for reconstruction, and $56,000,000 to be used to support Department of Defense relief operations;

Whereas the total amount of humanitarian assistance committed to Pakistan by the United States Agency for International Development is more than $400,000,000, and

Whereas the Department of Defense has deployed approximately 875 members of the Armed Forces and 31 helicopters to aid in the early relief efforts;

Whereas since October 8, 2005, United States helicopters have flown more than 1,000 missions, evacuated approximately 3,400 people, and delivered nearly 5,600,000 pounds of supplies;

Whereas the delivery of humanitarian assistance to the affected areas is difficult due to the mountains, the weather, and damaged or collapsed infrastructure;

Whereas Secretary of State Condoleezza Rice, during her October 12, 2005, visit to Pakistan, said the United States would support the efforts of the Government of Pakistan over the long-term to provide assistance to the victims of the earthquake and rebuild areas of the country devastated by the earthquake;

Whereas the cost of rebuilding the affected areas could be in excess of $10,000,000,000; and

Whereas the recovery and reconstruction of the areas devastated by the earthquake will require the concerted leadership of the United States and the governments of the affected countries and the international community: Now, therefore, be it

Resolved, That the Senate—

(1) commends the members of the United States Armed Forces and civilian employees of the Department of State and the United States Agency for International Development for taking swift action to assist the victims of the earthquake in South Asia that occurred on October 8, 2005;

(2) commends the international relief effort that includes the work of individual countries, numerous international organizations, and various relief and nongovernmental entities;

(3) commends the Governments of Pakistan and India for their cooperation in the common cause of saving lives and providing humanitarian relief to people on both sides of the Line of Control;

(4) encourages further cooperation between Pakistan and India on relief operations and efforts to fortify and enhance regional stability in the region as they cope with the impact of the earthquake during the winter of 2005 and the spring of 2006 and seek to rehabilitate the lives of those affected;

(5) urges the United States and the world community to reaffirm their commitment to...