Highway Trust Fund, and only $520.1 million was returned; and

''Whereas, in addition, even more money designated for return to Michigan, and several other states, is being withheld by federal transportation authorities. This money is critical to our transportation infrastructure and a vital component of the state's economic well-being.

''Whereas, the current budget debate offers an opportunity to reexamine this critical aspect of public spending. This examination should include immediately correcting the gross inequities in allocating the funds generated by the federal gas tax; now, therefore, be it

''*Resolved by the Senate,* That we respectfully, but urgently, ask the Congress of the United States to release to the states, including Michigan, any federal road funding due under the gas tax formula but currently being held back by the federal government; and be it further

''*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Michigan congressional delegation with the request that each member review this issue, offering a formal response to this body, the Michigan State Senate.''

POM–516. A resolution adopted by the Senate of the Legislature of the State of Washington; to the Committee on Finance.

''SENATE RESOLUTION 1996–8696

''Whereas, the Pacific Northwest Region comprising of Washington, Alaska, British Columbia, Alberta, Montana, Idaho, and Oregon contains numerous border crossings between the United States and Canada; and

''Whereas, cultural, social, and economic exchanges between the citizens, organizations, and businesses of the region have historically been and continue to be an integral part of the regions economic and cultural development; and

''Whereas, the historically close and constant ties between the two countries of Canada and the United States have been forged and maintained by continuous cultural exchanges ranging from fraternities, social, sports, and business clubs to name but a few; and

''Whereas, the rapid changes in global affairs require countries to renew and enhance their ties with neighboring states and countries; and

''Whereas, millions of individuals cross the borders of the Pacific Northwest per annum including numerous tourists expending billions of dollars in the United States and Canada; and

''Whereas, a border crossing fee as proposed by current federal legislation would adversely impact both the economy, culture, and quality of life for many of the regions' citizens; now, therefore, be it

''*Resolved,* That the Senate of the state of Washington opposes any proposal that would levy a fee on any individuals crossing the borders of the United States; and be it further

''*Resolved,* That copies of this resolution be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress from the State of Washington, Oregon, Montana, and Idaho, and the Secretary of the United States Customs and Immigration Department.''

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. LAUTENBERG:

S. 1632. A bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes; to the Committee on the Judiciary.

S. 1633. A bill to provide for school bus safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN (for himself, Mr. DOLE, Mr. DASCHLE, Mr. INOUYE, and Mr. D'AMATO):

S. 1634. A bill to amend the resolution establishing the Franklin Delano Roosevelt Memorial Commission to extend the service of certain members; to the Committee on Rules and Administration.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. STEVENS, Mr. HELMS, Mr. COCHRAN, Mr. WARNER, Mr. LOTT, Mr. KYL, Mr. SMITH, Mr. INHOFE, Mr. NICKLES, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, Mr. SANTORUM, Mr. MACK, and Mr. DOMENICI).

S. 1635. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

By Mr. WYDEN:

S. 1636. A bill to designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the ''Mark O. Hatfield United States Courthouse,'' and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes; to the Committee on Finance.

By Mr. PRESSLER (for himself, Mr. GLENN, Mr. D'AMATO, Mr. KERREY, Mr. BENNETT, and Mrs. FEINSTEIN):

S. 1638. A bill to promote peace and security in South Asia; to the Committee on Foreign Relations.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. WARNER, and Mr. GRAMM):

S. 1639. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 1632. A bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes; to the Committee on the Judiciary.

FIREARMS LEGISLATION

● Mr. LAUTENBERG. Mr. President, today I am introducing legislation that would prohibit individuals who have been convicted of a crime involving domestic violence from owning or possessing firearms.

Under current Federal law, Mr. President, it is illegal for people convicted of felonies to possess firearms. Yet many people who engage in serious spousal or child abuse ultimately are not charged with or convicted of felonies. At the end of the day, maybe following a plea bargain, they are convicted of misdemeanors. And these people are still free under Federal law to possess firearms.

This legislation will close this loophole, and will help keep guns out of the hands of people who have proven themselves to be violent and a threat to those closest to them. The legislation would add to the list of persons disqualified from owning or possessing a firearm individuals who have been convicted of any crime involving domestic violence, regardless of the length, term, or manner of punishment. This includes violent crimes committed by a spouse, former spouse, paramour, parent, guardian or similar individual.

Mr. President, although there is a growing awareness about the problem of domestic violence, in many places, even today, these outrageous acts are not taken as seriously as other forms of brutal behavior. Yet each year an estimated 2 million women are victimized by domestic violence. That is 10 times the number of women who are diagnosed with breast cancer. Of those 2 million women, nearly 6,000 die at the hands of men who at least at one time claimed to love them. About 70 percent of the time, those hands are holding a gun.

Mr. President, much of the killing and maiming associated with domestic violence could not happen but for the presence of a firearm. The New England Journal of Medicine reports that in households with a history of battering, a gun in the home increases the likelihood that a woman will be murdered fivefold. Often, the only difference between a battered woman and a dead woman is the presence of a gun.

Acts of domestic violence, by their nature, are especially dangerous and require special attention. These crimes involve people who have a history together, and who perhaps share a home or a child. These are not violent acts between strangers, and they do not arise from a chance meeting. Even after a split, the individuals involved often by necessity have a continuing relationship of some sort. The husbands, boyfriends, and former husbands who commit these crimes often have a record of violent and threatening behavior. And yet, frequently, these men are being permitted to possess firearms—with no legal restrictions.

The statistics and data are clear. Domestic violence, no matter how it is labeled, leads to more domestic violence. And guns in the hand of convicted spouse abusers lead to death.

To me, Mr. President, it is a simple proposition. Those guilty of acts of domestic violence should not be trusted to acquire or possess a gun. Period.

Mr. President, this legislation would save the lives of many innocent Americans. But it also would send a message about our Nation's commitment to ending domestic violence, and about our determination to protect the millions of women and children who suffer from this abuse.

I hope my colleagues will support the bill, and ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 1632

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

SECTION 1. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

''(33) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim under the domestic or family violence laws of the jurisdiction in which such felony or misdemeanor was committed.''.

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''or'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) is under indictment for, or has been convicted in any court of, any crime involving domestic violence.''; and

(2) in subsection (g)—

(A) by striking ''or'' at the end of paragraph (7);

(B) in paragraph (8), by striking the comma and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) who is under indictment for, or has been convicted in any court, or any crime involving domestic violence,''.

SEC. 3. RULES AND REGULATIONS.

Section 926(a) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

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

''(4) regulations providing for the effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(9) or (g)(9) of section 922.''.

SEC. 4. RESTORATION OF CIVIL RIGHTS AFTER CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by striking the period at the end and inserting the following: ''; or such restoration of civil rights occurs following conviction of a crime of domestic violence (as defined in section 921(a)(33)). A conviction of a crime of domestic violence shall not be considered to be a conviction for purposes of this chapter if the conviction is reversed or set aside based on a determination that the conviction is invalid, or if the person has been pardoned, unless the authority that grants the pardon expressly states that the person may not ship, transport, possess, or receive firearms.''.

SEC. 5. ADMINISTRATIVE RELIEF FROM CERTAIN FIREARM PROHIBITIONS.

(a) IN GENERAL.—Section 925(c) of title 18, United States Code, is amended—

(1) in the first undesignated sentence, by inserting ''(other than a person convicted of a crime of domestic violence as defined in section 921(a)(33))'' before ''who is prohibited''; and

(2) in the fourth undesignated sentence—

(A) by inserting ''person (other than a person convicted of a crime of domestic violence as defined in section 921(a)(33)) who is a'' before ''licensed importer''; and

(B) by striking ''his'' and inserting ''the person's''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to—

(1) application for administrative relief and actions for judicial review that are pending on the date of enactment of this Act; and

(2) applications for administrative relief filed, and actions for judicial review brought, after the date of enactment of this Act.●

By Mr. LAUTENBERG:

S. 1633. A bill to provide for schoolbus safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OMNIBUS SCHOOL TRANSPORTATION SAFETY ACT OF 1996

●Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Omnibus School Transportation Safety Act of 1996, that would improve the safety of schoolbus travel.

The legislation would require background checks of schoolbus drivers, establish minimum proficiency standards for such drivers, and promote advanced technologies that can help prevent schoolbus accidents. In addition, the bill calls for a variety of studies that could improve schoolbus safety and increase the information on bus safety available to school districts and parents.

Mr. President, America's schoolchildren have a right to safe transportation to and from school. And we have a responsibility to do everything we can to guarantee that safety.

To ensure our children's safety, we first must ensure that bus drivers are decent individuals who will not harm their passengers. Unfortunately, sexual deviants often are attracted to driving a schoolbus because the job gives them easy access to children who are the focus of their sexual desires.

Children who ride on schoolbuses, particularly those in elementary school, are extremely vulnerable to physical abuse. They are too young to comprehend what is being done to them and too small to physically defend themselves from an attack. As a nation, we have a responsibility to provide as much protection as possible to this vulnerable population. My bill therefore would require all States to perform a Federal background check on potential schoolbus drivers before they are allowed to be alone with our children.

Eighteen States—Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Michigan, Mississippi, New Jersey, New York, Ohio, Oregon, Pennsylvania, Utah, Virginia, Washington, and Louisiana—already conduct State and Federal background checks on their drivers. My amendment generally would not affect how these States administer their programs.

Fourteen States—Hawaii, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, North Carolina, Rhode Island, Texas, West Virginia, Nebraska, Illinois, and Wisconsin—currently perform only state background checks. This is well-meaning, but insufficient. A convicted sexual deviant can easily move to one of these States, receive a clean background check, and begin driving his prey to and from school. My bill therefore would require those States to participate in the nationwide, Federal program.

There also are 18 States—Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Maine, Montana, Nevada, New Mexico, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Vermont, and Wyoming—that have no background checks for their schoolbus drivers. There is no rational reason why these States should not do more to protect their citizens.

Mr. President, during the 2 months after California instituted Federal criminal background checks in 1990, it screened out 150 convicted sex offenders, child molesters, and violent criminals who tried to get permits to drive schoolbuses. This is shocking and my bill would address this problem.

Beyond requiring background checks for prospective schoolbus drivers, Mr. President, my bill includes a variety of provisions designed to reduce schoolbus accidents.

During the past 10 years, 300 school-age pedestrians under 19 years of age have died in schoolbus-related crashes. Two-thirds were killed by their own schoolbus. Half of all school-age pedestrians killed by schoolbuses in the past 10 years were 5- and 6-year-olds. On average, 21 school-age pedestrians are killed by schoolbuses each year, and 9 are killed by other vehicles involved in schoolbus-related crashes.

Mr. President, as a nation, we need to do much more to prevent schoolbus accidents. This bill attacks the problem on a number of fronts.

First, it would establish proficiency standards for schoolbus drivers.

Mr. President, driving a schoolbus with 40 young, screaming children is a unique skill that deserves specialized training. Unfortunately, many drivers are distracted when their young passengers are noisy or otherwise disruptive, and the results can be tragic. Inattention is one of the two factors most often reported by police for schoolbus drivers striking school-age pedestrians.

Bus drivers already are required to possess a commercial driver's license with a general endorsement for those driving vehicles with more than 15 passengers. However, there are no Federal standards specifically directed to schoolbus drivers. My bill would require the Secretary of Transportation to prescribe such standards.

Mr. President, some States already prescribe a level of proficiency for schoolbus drivers, but many do not. My bill generally would not interfere with existing State programs, but it would ensure that all schoolbus drivers meet a minimum standard of proficiency.

Another way that my bill would reduce schoolbus accidents is by assisting States to develop safer places for children to enter and leave their bus. For example, States could make bus stops more safe by increasing their visibility. Similarly, States could establish special safe areas in which children could disembark from busses, away from traffic.

The legislation also would require the Secretary of Transportation to promote the use and reduce the cost of hazard warning systems or sensors that alert schoolbus drivers of pedestrians or vehicles in, or approaching, the path of the schoolbus. These types of warning systems can be critical in saving the lives of young people. Unfortunatately, many school districts have failed to invest in such systems. One reason is that their cost can be high. We need to explore ways to reduce those costs.

Another provision in the bill would require the Secretary to improve training materials on schoolbus safety and to improve the distribution and availability of such materials to schools for use by the student safety patrols. The most effective way to protect schoolchildren is to teach them to protect themselves. The Department of Transportation can do more in this area.

My legislation also would promote research into the possibility of installing safety belts in schoolbuses.

Mr. President, in addition to the loss of life attributed to schoolbus accidents that I mentioned earlier, approximately 10,000 schoolbus passengers are injured every year. Most injuries occur during side and rollover collisions. In this type of collision, the compartmentalized seat does not protect children, who can fall up to 8 feet to strike the roof, windows, other seats, and other children.

To reduce these types of injuries, the State of New Jersey requires the installation and use of safety belts in all schoolbuses. New Jersey's State law in this area was adopted after a study by the New Jersey Office of Highway Traffic Safety into the safety of lap seatbelts in large school vehicles. That study concluded that installation of seatbelts in all schoolbuses would improve vehicles' overall safety performance. The study recommended that schoolbuses be required to be equipped with seatbelts, which led to later enactment of the New Jersey law.

Mr. President, I support this law and believe it should be adopted on a Nation-wide basis. It is nearly impossible for a bus without belts to rollover without causing injuries or death. However, I recognize that some in Washington believe more information is needed before establishing such a Federal requirement.

One cause of this skepticism is that the Federal Government does not study crashes in which there are no injuries. The National Transportation Safety Board only investigates bus crashes where there are severe injuries or fatalities. Therefore, the data they collect do not accurately reflect the benefits of safety belts in schoolbuses.

A bus with safety belts costs an average of $1,000 more than a bus without belts. With an estimated schoolbus life of 15 years, seatbelt installation would cost approximately $66 per bus per year.

Children are already required to wear seatbelts in cars. Installation of seatbelts on the standard size schoolbuses would reinforce the importance of wearing seatbelts, reduce injuries to our children, cost relatively little to install and maintain, and overall, makes schoolbus transportation safer for our children.

My bill would require the National Highway Traffic Safety Administration [NHTSA] to study the safety impact of safety belts on schoolbuses. It specifically requires that NHTSA evaluate the real life consequences of New Jersey's safety belt law. I am hopeful that the resulting study will help end the longstanding debate on this issue, so we can move forward to protect the lives of our Nation's children.

Mr. President, this legislation also requires the Secretary of Transportation to begin a rulemaking process to determine the feasibility and practicability of: First, decreasing the flammability of materials used in the construction of the interiors of schoolbuses; second, informing purchasers of schoolbuses on the secondary market that those buses may not meet current NHTSA standards; and third, establishing construction and design standards for wheelchairs used in the transportation of students in schoolbuses.

The bill also requires the Secretary to conduct a variety of studies designed to provide an accurate data base of schoolbus safety information. In addition, the bill, in response to requests from some States, calls for Federal guidelines on the securing in a schoolbus of children under the age of five, and on measures to facilitate their evacuation in an emergency.

Mr. President, the Omnibus School Transportation Safety Act of 1996 is comprehensive legislation that would dramatically reduce deaths and injuries of children associated with schoolbus accidents.

I hope my colleagues will support the bill, and ask unanimous consent that the text of the legislation, along with a section-by-section analysis of the bill, be included in the RECORD.

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

S. 1633

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Omnibus School Transportation Safety Act of 1996''.

(b) FINDINGS.—The Congress finds the following:

(1) In the United States, school buses travel more than 4,000,000,000 miles each year to transport approximately 25,000,000 children to and from school and various school-related activities.

(2) School buses are specifically designed to carry children safely to and from school, and generally are operated by educational agencies that receive Federal assistance for educational activities.

(3) On the average, each year in the United States—

(A) 17 occupants are killed while riding school buses, of which—

(i) 10 pupils are killed while riding type I school buses with a gross weight rating of greater than 10,000 pounds, and those school buses are predominantly used in the United States;

(ii) 2 pupils are killed while riding other vehicles used as school buses; and

(iii) 5 drivers are killed while driving school buses;

(B) 38 children are killed in loading zones surrounding school buses;

(C) 480 children are seriously injured while riding school buses; and

(D) 160 children are seriously injured while boarding or leaving school buses.

(4) Although most crashes involving school buses are minor, some examples of serious crashes that have had tragic consequences, include—

(A) the school bus crash that occurred in Alton, Texas;

(B) the school bus crash that occurred in October of 1995, in Fox River Grove, Illinois; and

(C) the recent school bus crash outside of Green Bay, Wisconsin, that killed the driver.

(5) Each year approximately 35,000 school buses are manufactured in the United States. The components for those buses are produced in various locations throughout the United States. The few companies that manufacture those buses ship the buses throughout the United States and to foreign countries.

(6) Numerous Federal laws, including subtitle VI of title 49, United States Code, regulate school buses as commercial motor vehicles. Subtitle VI of title 49, United States Code, provides for—

(A) motor vehicle safety standards under chapter 311 of that subtitle; and

(B) the regulation of commercial motor vehicle operators under chapter 313 of that subtitle.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) BUS.—The term ''bus'' means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' means a local educational agency (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) that receives Federal funds.

(3) NATIONAL CRIMINAL HISTORY BACKGROUND CHECK SYSTEM.—The term ''national

criminal history background check system'' has the meaning given that term in section 5(6) of the National Child Protection Act of 1993 (42 U.S.C. 5119c(6)).

(4) NEWLY EMPLOYED.—With respect to the employment of a school bus driver by an employer, the term ''newly employed'' applies to the initial employment of an individual who has not been similarly employed by that employer.

(5) POSTSECONDARY INSTITUTION.—The term ''postsecondary institution'' means an institution of higher education, as that term is defined in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)).

(6) PRIVATE SCHOOL.—The term ''private school'' includes any private postsecondary institution.

(7) SCHOOL BUS.—The term ''school bus''—

(A) means a bus that is used for purposes that include carrying pupils to and from a public or private school or school-related events on a regular basis; and

(B) does not include a transit bus or a school-chartered bus.

(8) SCHOOL-CHARTERED BUS.—The term ''school-chartered bus'' means a bus that is operated under a short-term contract with State, local, or private school authorities, which have acquired exclusive use of the bus at a fixed charge in order to provide transportation for a group of pupils to a special school-related event.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(10) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 3. PROFICIENCY STANDARDS FOR SCHOOL BUS DRIVERS.

(a) PROFICIENCY STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations establishing proficiency standards for school bus drivers (including drivers of school-chartered buses) who are required under applicable State law to possess a commercial driver's license to operate a school bus.

(b) EXEMPTION FOR CERTAIN STATES.—The regulations issued under subsection (a) shall provide that a State may use State proficiency standards, in lieu of the standards established by such regulations, if—

(1) the State proficiency standards are established before the date on which the proficiency standards under such regulations are established; and

(2) the Secretary determines that such State proficiency standards are as rigorous as the proficiency standards under such regulations.

(c) DEMONSTRATION OF PROFICIENCY.—Upon the establishment of the proficiency standards under subsection (a), each school bus driver referred to in such subsection shall demonstrate (at such intervals as the Secretary shall prescribe) to the employer of the driver, the local educational agency, the State licensing agency, or other person or agency responsible for regulating school bus drivers, the proficiency of that driver in operating a school bus in accordance, as the case may be, with the proficiency standards—

(1) established by the regulations issued under subsection (a); or

(2) established by the State concerned and determined by the Secretary to be as rigorous as the proficiency standards established by the regulations issued under subsection (a).

SEC. 4. CRIMINAL BACKGROUND CHECKS OF SCHOOL BUS DRIVERS.

(a) PROHIBITION ON EMPLOYMENT PENDING CHECK.—Notwithstanding any other provision of law, no local educational agency, private school, or contractor providing school transportation services to a local educational agency or private school, may newly employ an individual as a driver of a school bus of, or on behalf of, the agency or private school before the completion of a background check of that individual through the national criminal history background check system to determine whether the individual has been convicted of a crime which would warrant barring the person from duties as a driver of a school bus.

(b) BACKGROUND CHECK PROCEDURES.—

(1) IN GENERAL.—Each State shall establish procedures for conducting a background check under this section.

(2) REQUIREMENTS FOR PROCEDURES.—The procedures established under this subsection shall include the designation of an agency of the State to—

(A) carry out the background checks; and

(B) meet the guidelines set forth in section 3(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)).

(c) LIMITATION ON LIABILITY.—A local educational agency, private school, or a contractor providing school transportation services to a local educational agency or private school shall not be liable in an action for damages on the basis of a criminal conviction of a person employed by that agency or contractor as a school bus driver if—

(1) a background check of the person was conducted under this section; and

(2) the conviction was not disclosed to the local agency, private school, or contractor providing such transportation services pursuant to the background check.

(d) FEES.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may impose and collect a fee for providing assistance in the conduct of a background check under this section. The amount of such fee may not exceed the actual cost to the Federal Bureau of Investigation for providing such assistance.

(2) MONITORING.—The Attorney General of the United States shall monitor the collection of fees under this subsection for purposes of ensuring that—

(A) the fees are collected on a uniform basis; and

(B) the amounts collected reflect only the actual cost to the Federal Bureau of Investigation of providing assistance in the conduct of background checks under this section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to an individual newly employed by a local educational agency, private school, or contractor providing school transportation services to a local educational agency or private school beginning on the later of—

(A) the date that is 60 days after the date of enactment of this Act; or

(B) the date on which the State agency in which the local educational agency, private school, or contractor providing such transportation services is located establishes the procedures required under subsection (c).

(2) BACKGROUND CHECKS CONDUCTED BY THE FBI.—

(A) IN GENERAL.—To the maximum extent practicable, during the period specified in subparagraph (B), a local educational agency, private school, or contractor providing school transportation services shall request that the Federal Bureau of Investigation conduct a background check with fingerprints of each individual newly employed by the local educational agency, private school, or contractor as a school bus driver of the local educational agency, private school, or contractor.

(B) PERIOD OF APPLICABILITY.—Subparagraph (A) shall apply to a local educational agency, private school, or contractor providing school transportation services during the period beginning on the date of enactment of this Act and ending on the date of applicability of this section, as determined under paragraph (1).

(f) FUNDING.—

(1) VIOLENCE PREVENTION PROGRAMS.—Section 4116(b)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7116(b)(5)) is amended by striking ''and neighborhood patrols'' and inserting ''neighborhood patrols, and criminal background checks of potential drivers of school buses under section 4 of the Omnibus School Transportation Safety Act of 1996''.

(2) INNOVATIVE EDUCATION ASSISTANCE.—Section 6301(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7351(b)) is amended—

(A) by striking ''and'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(9) the carrying out of criminal background checks of potential drivers of school buses under section 4 of the Omnibus School Transportation Safety Act of 1996.''.

SEC. 5. DEVELOPMENT OF INTELLIGENT VEHICLE-HIGHWAY SYSTEMS FOR SCHOOL BUS SAFETY.

Section 6055(d) of the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

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

''(4) ensure that 1 or more operational tests advance the use and reduce the cost of intelligent vehicle-highway system technologies (including hazard warning systems or sensors) that alert school bus drivers of pedestrians or vehicles in, or approaching, the path of the school bus.''.

SEC. 6. STUDY OF OCCUPANT RESTRAINTS IN SCHOOL BUSES.

(a) STUDY.—The National Transportation Safety Board organized under chapter 11 of title 49, United States Code, shall conduct a study on the safety consequences of the requirement of the State of New Jersey for lap belts in school buses.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Chairman of the National Transportation Safety Board shall submit to the Congress a report containing the findings of the study conducted under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Transportation Safety Board to carry out this section $100,000, which shall remain available until expended.

SEC. 7. TRAFFIC ENGINEERING ACTIVITIES TO IMPROVE SCHOOL BUS SAFETY.

Notwithstanding any other provision of law, the Secretary shall ensure that each State receiving aid to conduct highway safety programs under section 402(c) of title 23, United States Code, may utilize a portion of such aid for the purpose of conducting traffic engineering activities in order to improve the safe operation of school buses.

SEC. 8. DETERMINATION OF PRACTICABILITY AND FEASIBILITY OF CERTAIN SAFETY AND ACCESS REQUIREMENTS FOR SCHOOL BUSES.

(a) COMMENCEMENT OF RULEMAKING PROCESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall commence or continue to carry out a rulemaking process to determine the feasibility and practicability of—

(1) a requirement for a decrease in the flammability of the materials used in the construction of the interiors of school buses;

(2) a requirement that individuals, local educational agencies, or companies that sell in the secondary market school buses that may be used in interstate commerce inform purchasers of those buses that those buses may not meet applicable National Highway Transportation Safety Administration standards or Federal Highway Administration standards; and

(3) the establishment of construction and design standards for wheelchairs used in the transportation of pupils in school buses.

(b) FINAL RULE.—Not later than 30 months after the date of enactment of this Act, the Secretary shall issue a final regulation providing for any requirement or standard referred to in paragraph (1), (2), or (3) of subsection (a) that the Secretary determines to be feasible and practicable.

(c) REPORT TO CONGRESS.—If the Secretary makes a determination that a requirement or standard referred to in paragraph (1), (2), or (3) is not feasible or practicable, not later than the date specified in subsection (b), the Secretary shall prepare and submit to the Congress a report that provides the reasons for that determination.

SEC. 9. GUIDELINES FOR SAFE TRANSPORTATION OF CHILDREN BY SCHOOL BUS.

The Administrator of the National Highway Traffic Safety Administration shall develop and disseminate guidelines for ensuring the safe transportation in school buses of children under the age of 5. Those guidelines shall include recommendations for the evacuation of such children from such buses in the event of an emergency.

SEC. 10. DISSEMINATION OF INFORMATION ON SCHOOL BUS SAFETY.

(a) DISSEMINATION OF INFORMATION.—In carrying out research on highway safety under section 403 of title 23, United States Code, in consultation with the appropriate officials or representatives of the American Automobile Association, State educational agencies, and highway safety organizations, the Secretary shall provide for the improvement of—

(1) training materials on school bus safety; and

(2) the distribution and availability of such materials to public and private schools for use by the student safety patrols of those schools and to appropriate law enforcement agencies.

(b) FUNDING.—Notwithstanding any other provision of law, of the funds made available to the Secretary for research on highway safety and traffic conditions under section 403 of title 23, United States Code, for each of fiscal years 1996 through 2001, $100,000 shall be available for each of those fiscal years for the purposes of carrying out this section.

SEC. 11. STUDY AND REPORT ON SCHOOL BUS SAFETY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall carry out a study to determine—

(A) the extent to which public transit vehicles (as defined by the Secretary) are engaged in school bus operations;

(B) the point at which a public transit vehicle is sufficiently engaged in such operations as to be considered a school bus for purposes of regulation under Federal law; and

(C) the differences between school bus operations carried out directly by schools or local educational agencies and school bus operations carried out by schools or local educational agencies by contract or tripper service (as defined by the Secretary).

(2) AREAS.—The study conducted under this subsection shall address the differences between the services and operations referred to in paragraph (1)(C) in terms of—

(A) crash injury data;

(B) driver and carrier requirements;

(C) passenger transportation requirements;

(D) routes and operational requirements that affect safety;

(E) vehicle attributes that affect safety;

(F) bus construction and design standards;

(G) Federal and State operating assistance (per passenger, per mile, per hour);

(H) total operating costs;

(I) Federal and State capital assistance (per passenger, per mile, per hour);

(J) total capital costs; and

(K) any other factor that the Secretary considers appropriate.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the committees described in paragraph (2) a report on the results of the study carried out under subsection (a).

(2) COMMITTEES.—The committees referred to in paragraph (1) are—

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Appropriations of the Senate;

(D) the Committee on Transportation and Infrastructure of the House of Representatives;

(E) the Committee on Commerce of the House of Representatives; and

(F) the Committee on Appropriations of the House of Representatives.

SEC. 12. IMPROVED INTERSTATE SCHOOL BUS SAFETY.

(a) APPLICABILITY OF FEDERAL MOTOR CARRIER SAFETY REGULATIONS TO INTERSTATE SCHOOL BUS OPERATIONS.—Section 31136 of title 49, United States Code, is amended—

(1) by striking the second sentence of subsection (e); and

(2) by adding at the end the following new subsection:

''(g) APPLICABILITY TO SCHOOL TRANSPORTATION OPERATIONS OF LOCAL EDUCATIONAL AGENCIES.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall issue regulations making the relevant commercial motor carrier safety regulations issued under subsection (a) applicable to all interstate school transportation operations by local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)).''.

(b) EDUCATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop and implement an education program informing all local educational agencies that those agencies are required to comply with the Federal commercial motor vehicle safety regulations issued under section 31136 of title 49, United States Code, when providing interstate transportation on a school bus vehicle to and from school-sanctioned and school-related activities.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

OMNIBUS SCHOOL TRANSPORTATION SAFETY ACT OF 1996—SECTION BY SECTION

Sec. 1: Short Title; Findings.

Sec. 2: Definitions.

Sec. 3: Directs the Secretary to prescribe proficiency standards for school bus drivers.

At present, school bus drivers are required to have a Commercial Drivers License (CDL). However, CDL training for bus drivers is geared primarily towards commercial motor carrier drivers. ''Inattention'' and ''failure to yield'' were the factors most often reported by police for school bus drivers striking a school-age pedestrian. A school bus driver faces unique driving and pupil control situations that current CDL training does not address. This section will require school bus drivers to be trained to handle these unique situations before they are allowed on the road.

Sec. 4: Requires states to conduct federal background checks with fingerprints of prospective school bus drivers.

School bus drivers are alone and off of school property with students for extended periods of time. At present, 18 States conduct Federal background checks, 14 States only do state background checks, and 18 States do no background checks on potential drivers. State background checks are not sufficient. Someone can easily move from one State to another and leave their criminal history behind. This provision is designed to ensure that parents know who is alone with their children. Just 2 months after requiring fingerprint criminal background checks, California screened out 150 convicted sex offenders, child molesters and violent criminals who tried to get permits to drive school buses. Funding to assist states that are not already committing resources to this type of activity is provided through the Department of Education's crime free school program.

Sec. 5: Directs the Secretary to do one or more operation tests to advance the use and reduce the cost of hazard warning systems that alert school bus drivers of pedestrians or vehicles in, or approaching, the path of the school bus.

Two out of every three children killed in school bus related accidents are killed outside the school bus. Many are struck by their own school bus. The causes vary from driver inattentiveness, blind spots, or children's clothing being caught on a part of the bus causing the bus to drag the child to death. These accidents occur in the bus' ''danger zone.'' While there are electronic devices on the market that are designed to detect and warn drivers when an object is in the danger zone, most are expensive and have reliability problems. The goal of this section is to increase the reliability and reduce the cost of existing technology.

Sec. 6: Directs to the National Transportation Safety Board to study the safety consequences of required use of safety belts in New Jersey school buses.

Approximately 10,000 school bus passengers are injured every year. Most injuries and fatalities in the bus occur during side and rollover collisions. In these types of collisions the ''compartmentalized'' seat does not protect children who fall about eight feet and strike the roof, windows, seats and other children. Safety belts have been standard equipment in passenger automobiles for quite some time, and they have proven to be effective life-saving and injury-preventing devices. However, not all school buses are required to be equipped with seat belts.

The debate on whether or not safety belts should be required on school buses is heated. However, the lack of sufficient data, makes an accurate estimate on the effectiveness of school bus seat belts very difficult. Therefore, my bill directs the National Transportation Safety Board to study the safety consequences of the use of safety belts in New Jersey school buses. New Jersey is the only State which has mandatory school bus safety belt use and it will provide an excellent opportunity for researchers to build the base of knowledge on this subject that we need to determine if safety belts in school buses should be the norm.

Sec. 7: Provides aid for the purpose of conducting traffic engineering activities in order to improve the safe operation of school buses in the ''danger zone.''

An overwhelming number of students are killed during the loading and unloading of the school bus. Proper engineering of loading and unloading zones will improve the safety and reduce the number of accidents and fatalities which take place in the ''danger zone.'' This provision will allow States to utilize section 402(C) funds to assist in the development of safety guidelines for the construction and selection of school bus loading and un-loading zones.

Sec. 8: Requires the Secretary to begin a rulemaking process to determine the feasibility and practicality of:

A requirement for a decrease in the flammability of the materials used in the construction of the interiors of school buses;

A requirement that sellers of school buses in the secondary market inform purchasers that such buses may not meet current National Highway Transportation Safety Administration or Federal Highway Administration standards and;

Establishing construction and design standards for wheelchairs used in the transportation of students in school buses.

Reduction of the flammability of material in school buses continues to be on the National Transportation Safety Board's most wanted list. NTSB made this recommendation after the 1988 Carrollton, KY bus accident. In that incident, a pre-1977 school bus was struck by a pick-up truck. The bus' gas tank was ruptured and a fire ensued, engulfing the entire bus. The bus driver and 26 bus passengers were fatally injured. Had stricter flammability requirements been in effect during construction of this bus the NTSB believes more of the passengers could have escaped the bus without serious injury.

Used school buses are a popular form of transportation for church groups and civic organizations. Unfortunately, many of these groups believe that school buses are built to the highest safety standards available. This is not the case. Therefore, the bill would require that potential purchasers of used buses are made aware of this fact so they can modify their uses of the bus based upon the level of safety the bus offers in certain situations.

While there are Federal standards relating to how wheelchairs must be secured into school buses, there are no standards for the wheelchairs themselves. This provision is designed to ensure that students who use a wheelchair are afforded maximum protection in case of a school bus accident.

Sec. 9: Requires NHTSA to develop and disseminate guidelines on securing children under the age of five in school buses and on evacuating those same children from school buses.

For one reason or another school districts are beginning to transport more and more children below the age of five in traditional school buses. Most, if not all, school buses and school bus seats are designed to accommodate and protect children age five and older. In addition, state laws and common sense dictate that children under the age of four use a car seat when riding in a motor vehicle. Many communities are struggling with the appropriate way to safely transport children below the age of five in school buses. This provision would require NHTSA to develop guidelines on securing young children in school buses. The provision also addresses the problems evacuation of children in car seats could pose in an emergency.

Sec. 10: Requires the Secretary to improve and distribute school bus safety information.

Every year approximately 20 children are killed outside their school bus. They are either struck by their own bus or by another vehicle. One of the most effective ways to prevent these types of accidents is to properly educate children and their parents to these dangers. While a variety of safety information is available, it is not widely distributed. This provision would require the Secretary to review existing safety material, make improvements if necessary and then ensure that the material is adequately distributed to children and parents.

Sec. 11: Require the Secretary to carry out a study to determine the following:

The extent to which public transit vehicles are engaged in school bus operations;

The point at which a public transit vehicle is sufficiently engaged in such operations as to be considered a school bus for purposes of regulation under Federal law and;

The differences between school bus operations carried out directly by schools or school districts and school bus operations carried out by schools or school districts by contract.

Federal law prohibits school districts from contracting out to the local municipal bus service to carry out the school district's pupil transportation activities. However, there are some specific exceptions to this rule. With present budget pressures school districts are increasingly looking to take advantage of these exceptions also known as ''tripper service.'' This provision is designed to determine how many communities may be using tripper service as a means of school transportation, at what point a municipal bus engaged in tripper service should be considered a school bus, and the differences between contracted school bus operations and non-contracted school bus operations.

Sec. 12: Extends the applicability of Federal Motor Carriers Safety Regulations to the school transportation operations of Local Education Agencies.

When operating across State lines, school buses almost without exception must use the same highways—many of them high-speed arteries—as other vehicles. The speeds attained are considerably greater and there is an elevated risk of associated driver fatigue. This fact underscores the need for comprehensive and consistent application of the FMCSR's to any school bus operating across state lines when engaged in school-related and sanctioned activities.

Since their inception in 1935, the FMCSR's have been incrementally modified. For example, in 1989 the FHWA issued modifications which for the first time subjected all interstate contractor-operated school transportation operations to the FMCSR's. In 1994, the FHWA extended application of the FMCSR's to most interstate private bus operations such as scout groups and churches. My bill would extend the applicability of FMCSR's to buses used by local education agencies which are used in interstate commerce.

Sec. 13: Authorization of Appropriations.●

By Mr. DOLE (for himself, Mr. THURMOND, Mr. STEVENS, Mr. HELMS, Mr. COCHRAN, Mr. WARNER, Mr. LOTT, Mr. KYL, Mr. SMITH, Mr. INHOFE, Mr. NICKLES, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, Mr. SANTORUM, Mr. MACK, and Mr. DOMENICI):

S. 1635. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

THE DEFEND AMERICA ACT OF 1996

Mr. DOLE. Mr. President, today I rise to introduce legislation which will have a profound impact on America's future. I am pleased to be joined by the chairman of the Armed Services and Foreign Relations Committees, the chairman of the Defense Appropriations Subcommittee, the Republican leadership, and other Republicans strongly interested in missile defense, in introducing the Defend America Act of 1996. An identical bill is being introduced in the House by the Speaker and the chairmen of the Appropriations Committee and the National Security Committee, among others. This bill addresses the most fundamental responsibility the U.S. Government has to its citizens: to protect them from harm. At present, the United States has no defense—I repeat—no defense against ballistic missiles.

The Defend America Act of 1996 answers the question of whether Americans should be protected from the threat of ballistic missile attack with a resounding ''Yes.'' There should be no doubt that we have the technical capability to defend our great Nation from the growing threat of ballistic missiles. What we need is the will and the leadership. We have seen no leadership from the White House on this issue. Indeed, we have witnessed a complete denial from the highest levels of the administration that there is even a threat to the United States. President Clinton vetoed the fiscal year 1996 Defense authorization bill because it required developing a national missile defense system for deployment by the end of 2003. President Clinton refuses to defend America preferring to rely on the false protection of the cold-war-era antiballistic missile [ABM] treaty.

The cold war is over and the threat from ballistic missiles is real and growing. Among others, North Korea, Iran, Libya, Iraq, and Syria are seeking to obtain weapons of mass destruction and ballistic missile delivery systems. China and Russia have been engaged in transferring related components and technologies.

Just last week, the former Director of the Central Intelligence Agency, James Woolsey testified before the House National Security Committee on his views of the threat posed by ballistic missiles—as well as the current national intelligence estimate on this threat. I would like to quote from his testimony:

We are in the midst of an era of revolutionary improvements in missile guidance. These improvements will soon make ballistic missiles much more effective for blackmail purposes . . . even without the need for warheads containing weapons of mass destruction. . . .

With such guidance improvements, it is quite reasonable to believe that within a few years Saddam or the Chinese rulers will be able to threaten something far more troubling . . .

Woolsey went on to say:

But, in current circumstances, nuclear blackmail threats against the United States may be effectively posed by North Korean intermediate ranged missiles targeted on Alaska or Hawaii, or by Chinese ICBM's targeted on Los Angeles.

With respect to the national intelligence estimate, Woolsey criticized the narrow focus of the estimate which concentrated on indigenous intercontinental ballistic missile development—as opposed to the transfer of such components and technology. As Woolsey pointed out, since the end of the cold war, Russia, China, and North Korea have been actively exporting missile technology and components. Furthermore, Woolsey noted that the national intelligence estimate only looked at the threat to the 48 continental States. Well, the last time I checked, Alaska and Hawaii were part of the United States. The bottom line is that the threat is real and we cannot wait for it to arrive on our doorstep before we act. As former Assistant Secretary of Defense Richard Perle stated before the National Security Committee, and I quote:

If we achieve a defensive capability a little before it is absolutely necessary, no harm will have been done. But if we are too late, the result could be catastrophic. In cases like this, it is always wise to err on the side of too much, too soon, rather than too little, too late.

Mr. President, this legislation establishes a clear policy to deploy a national missile defense [NMD] system by the end of 2003, that is capable of providing a highly effective defense of U.S. territory against limited, unauthorized, or accidental ballistic missile attacks. The bill also specifies the components of a national missile defense system that are to be developed for deployment, including: An interceptor system, fixed ground-based radars, space-based sensors, and battle management, command, control, and communications.

To implement this policy, this legislation directs the Secretary of Defense to: Promptly initiate planning to meet this deployment goal; conduct by the end of 1998, an integrated systems test using NMD components; to use streamlined acquisition procedures to reduce cost and increase efficiency; and to develop a follow-on NMD program.

The Secretary of Defense is also required to submit a detailed report to the Congress no later than March 15, 1997, which outlines his plans for implementing this policy, the estimate costs associated with the development and deployment of the NMD system, a cost and operational effectiveness analysis of follow-on options, and a determination of the point at which NMD development would conflict with the ABM Treay.

With respect to the ABM Treaty, the legislation urges the President to bring the Russians on board, by pursuing high-level discussions with Russia to amend the ABM Treaty to allow for the deployment of the NMD system specified in this act. If the Russians do agree, the legislation requires any agreement to be submitted to the Senate for advice and consent. However, if a satisfactory agreement is not reached within a year of the date of enactment of this legislation, the President and Congress will consider U.S. withdrawal from the ABM Treaty.

Mr. President, deploying a national missile defense system—which will protect all 50 States—should be our top defense priority. The Defend America Act lays out a realistic and responsible course by which we can do so.

A national missile defense system will not only defend, it will deter—by reducing the incentive of rogue regimes to acquire ballistic missiles and weapons of mass destruction.

I hope that the White House is listening. Republicans are united and clear in their message that America must be defended. We are ready to exercise leadership to fulfill our responsibility to all Americans to protect them from ballistic missile attack.

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. 1635

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 ''Defend America Act of 1996''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Although the United States possesses the technological means to develop and deploy defensive systems that would be highly effective in countering limited ballistic missile threats to its territory, the United States has not deployed such systems and currently has no policy to do so.

(2) The threat that is posed to the national security of the United States by the proliferation of ballistic missiles is significant and growing, both quantitatively and qualitatively.

(3) The trend in ballistic missile proliferation is toward longer range and increasingly sophisticated missiles.

(4) Several countries that are hostile to the United States (including North Korea, Iran, Libya, and Iraq) have demonstrated an interest in acquiring ballistic missiles capable of reaching the United States.

(5) The Intelligence Community of the United States has confirmed that North Korea is developing an intercontinental ballistic missile that will be capable of reaching Alaska or beyond once deployed.

(6) There are ways for determined countries to acquire missiles capable of threatening the United States with little warning by means other than indigenous development.

(7) Because of the dire consequences to the United States of not being prepared to defend itself against a rogue missile attack and the long-lead time associated with preparing an effective defense, it is prudent to commence a national missile defense deployment effort before new ballistic missile threats to the United States are unambiguously confirmed.

(8) The timely deployment by the United States of an effective national missile defense system will reduce the incentives for countries to develop or otherwise acquire intercontinental ballistic missiles, thereby inhibiting as well as countering the proliferation of missiles and weapons of mass destruction.

(9) Deployment by the United States of a national missile defense system will reduce concerns about the threat of an accidental or unauthorized ballistic missile attack on the United States.

(10) The offense-only approach to strategic deterrence presently followed by the United States and Russia is fundamentally adversarial and is not a suitable basis for stability in a world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(11) Pursuing a transition to a form of strategic deterrence based increasingly on defensive capabilities and strategies is in the interest of all countries seeking to preserve and enhance strategic stability.

(12) The deployment of a national missile defense system capable of defending the United States against limited ballistic missile attacks would (A) strengthen deterrence at the levels of forces agreed to by the United States and Russia under the START I Treaty, and (B) further strengthen deterrence if reductions below START I levels are implemented in the future.

(13) Article XIII of the ABM Treaty envisions ''possible changes in the strategic situation which have a bearing on the provisions of this treaty''.

(14) Articles XIII and XIV of the treaty establish means for the parties to amend the treaty, and the parties have in the past used those means to amend the treaty.

(15) Article XV of the treaty establishes the means for a party to withdraw from the treaty, upon six months notice ''if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests''.

(16) Previous discussions between the United States and Russia, based on Russian President Yeltsin's proposal for a Global Protection System, envisioned an agreement to amend the ABM Treaty to allow (among other measures) deployment of as many as four ground-based interceptor sites in addition to the one site permitted under the ABM Treaty and unrestricted exploitation of sensors based within the atmosphere and in space.

SEC. 3. NATIONAL MISSILE DEFENSE POLICY.

(a) It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of providing a highly-effective defense of the territory of the United States against limited, unauthorized, or accidental ballistic missile attacks; and

(2) will be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats as they emerge.

(b) It is the policy of the United States to seek a cooperative transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 4. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) REQUIREMENT FOR DEVELOPMENT OF SYSTEM.—To implement the policy established in section 3(a), the Secretary of Defense shall develop for deployment an affordable and operationally effective National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) by the end of 2003.

(b) ELEMENTS OF THE NMD SYSTEM.—The system to be developed for deployment shall include the following elements:

(1) An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited, accidental, or unauthorized ballistic missile attacks and includes one or a combination of the following:

(A) Ground-based interceptors.

(B) Sea-based interceptors.

(C) Space-based kinetic energy interceptors.

(D) Space-based directed energy systems.

(2) Fixed ground-based radars.

(3) Space-based sensors, including the Space and Missile Tracking System.

(4) Battle management, command, control, and communications (BM/C³).

SEC. 5. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 4(a);

(2) plan to conduct by the end of 1998 an integrated systems test which uses elements (including BM/C³ elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 4(b);

(3) prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 4(a); and

(4) develop an affordable national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 4(a), and

(B) augments that system, as the threat changes, to provide for a layered defense.

SEC. 6. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than March 15, 1997, the Secretary of Defense shall submit to Congress a report on the Secretary's plan for development and deployment of a national missile defense system pursuant to this Act. The report shall include the following matters:

(1) The Secretary's plan for carrying out this Act, including—

(A) a detailed description of the system architecture selected for development under section 4(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary's estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1997 through 2003 in order to achieve the initial operational capability date specified in section 4(a).

(3) A cost and operational effectiveness analysis of follow-on options to improve the effectiveness of such system.

(4) A determination of the point at which any activity that is required to be carried out under this Act would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determination, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 4(a).

SEC. 7. POLICY REGARDING THE ABM TREATY.

(a) ABM TREATY NEGOTIATIONS.—In light of the findings in section 2 and the policy established in section 3, Congress urges the President to pursue high-level discussions with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 4.

(b) REQUIREMENT FOR SENATE ADVICE AND CONSENT.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) ACTION UPON FAILURE TO ACHIEVE NEGOTIATED CHANGES WITHIN ONE YEAR.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing the United States from the ABM Treaty in accordance with the provisions of Article XV of that treaty.

SEC. 8. ABM TREATY DEFINED.

For purposes of this Act, the term ''ABM Treaty'' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

Mr. THURMOND. Mr. President, I am extremely proud to be a principal cosponsor of the Defend America Act of 1996, which was introduced by Senator DOLE today. This legislation will fill a glaring void in U.S. national security policy by requiring the deployment of a national missile defense system by 2003 that is capable of defending the United States against a limited, accidental, or unauthorized ballistic missile attack.

Ironically, most Americans already believe that we have such a system in place. This assumption is understandable since under the Constitution the President's first responsibility is to provide for the defense of the American homeland. Unfortunately, the current President has decided that this obligation is one that can be indefinitely delayed. I join Senator DOLE and others today in proclaiming that the time has come to end America's complete vulnerability to ballistic missile blackmail and attack.

The President and senior members of the administration have argued that there is no threat to justify deployment of a national missile defense system. This is simply not true. The political and military situation in the former Soviet Union has deteriorated, leading to greater uncertainty over the control and security of Russian strategic nuclear forces. China is firing missiles near Taiwan as if it were a skeet range, and has even made veiled threats against the United States. North Korea is developing an intercontinental ballistic missile that will be capable of reaching the United States once deployed. Other hostile and unpredictable countries, such as Libya, Iran, and Iraq, have made clear their desire to acquire missiles capable of reaching the United States. The technology and knowledge to produce missiles and weapons of mass destruction is available on the open market.

China's recent provocations against Taiwan highlight the need for the United States to deploy a national missile defense system as soon as possible. Although veiled threats against the United States may be only saber rattling, American military and political leaders should not ignore them. If the United States possessed even a limited national missile defense system, U.S. decision-makers would have a much greater degree of flexibility in considering our military and diplomatic options. A vulnerable America is not only subject to missile attack, but also to blackmail and intimidation.

Last year, President Clinton vetoed the Defense authorization bill mainly because it called for deployment of a national missile defense system. The administration argued that there was no need for such a system, that the threat is 10 or 15 years away. China has clearly illustrated how their judgment is flawed. The threat is here today.

If the situation should deteriorate between China and Taiwan, President Clinton will almost certainly regret the fact that the United States has no means of dealing with Chinese missile threats other than by our own nuclear threats. This is hardly a credible response. A national missile defense system, on the other hand, would eliminate the risk and uncertainty that would surely occur if China and the United States engaged in a series of nuclear threats and counterthreats. This would be an invitation for disaster. If we had an operational national missile defense system, we could confidently deal with Chinese missile threats and pursue our policies and objectives without intimidation.

The other important factor to bear in mind when considering the need for a national missile defense system, is that such a system can actually discourage countries from acquiring long-range missiles in the first place. In this sense, we should view national missile defense as a powerful nonproliferation tool, not just something to be considered some time in the future as a response to newly emerging threats.

The policy advocated in the Defend America Act of 1996 is virtually identical to that contained in the fiscal year 1996 Defense Authorization Act, which was passed by Congress and vetoed by the President. Like the legislation vetoed by the President, the Defend America Act of 1996 would require that the entire United States be protected against a limited, accidental, or unauthorized attack by the year 2003. It differs from the vetoed legislation in that it provides the Secretary of Defense greater flexibility in determining the precise architecture for the system.

The Defend America Act of 1996 urges the President to begin negotiations to amend the AMB Treaty to allow for deployment of an effective system. But it also recommends that, if these negotiations fail to produce acceptable amendments within 1 year, Congress and the President should consider withdrawing the United States from the ABM Treaty. Nothing in this legislation, however, requires or advocates abrogation or violation of the ABM Treaty.

Mr. President, 3 months ago, the President of the United States vetoed

the Defense authorization bill because he opposed the deployment of a system to defend the American people against ballistic missile attack. Today, I am honored to join Senator DOLE in sending a clear message—we will not stand idly by while the United States remains undefended against a real and growing threat. The legislation we are introducing today will fulfill a constitutional, strategic, and moral obligation that has been neglected for 4 years.

Mr. MCCAIN. Mr. President, I am proud to cosponsor this legislation to establish a policy for deploying a national defense system for the United States. This bill, the National Missile Defense Act of 1996, returns the United States on a clear path toward deploying a system to defend the American people against limited, accidental, or unauthorized ballistic missile attacks.

In 1991, the Congress enacted the first Missile Defense Act, in a bipartisan effort to give direction to the Strategic Defense Initiative program, now known as the Ballistic Missile Defense program. The need for theater missile defense systems had been tragically demonstrated during the Persian Gulf war, and it was clear that the potential threats to our continent would continue to exist, even with the collapse of the Soviet Union.

Subsequently, that policy was watered down and its deployment objectives were delayed time and again. I congratulate Senator DOLE for taking the lead today in restoring much-needed direction to our national missile defense efforts.

Our Nation has invested over $38 billion on missile defense programs over the past 15 years, with very little effective defensive capability to show for it. We are at a turning point in the development of capabilities to effectively defend our citizens and our troops deployed overseas from the devastating effects of ballistic missile attacks.

We should focus our missile defense programs on the risk of accidental or unauthorized missile launch, missile proliferation in the Third World, and particularly the risk of theater missile attacks on our forces and allies.

Deployment of effective, mobile theater missile defense systems for our troops in the field should be our first priority. To do so requires an evaluation of the many ongoing research programs to determine which demonstrates the most promise for deployable capability against battlefield missile attacks.

I am greatly disappointed that the administration chose to ignore Congressional direction and cut the theater missile defense funding approved by the Congress last year. The core programs identified in the fiscal year 1996 Defense authorization bill, including both lower and upper tier systems, must be fully funded to ensure the most effective protection for our troops in the field. I fully expect Congress to restore the funding and restate the programmatic direction to make these systems available to our forces.

At the same time, we must develop a deployment plan for an initial national missile defense system to provide an effective defense of U.S. territory against limited ballistic missile attacks. This bill establishes a goal of 2003 to deploy such a system and directs the Secretary of Defense to develop a plan to implement that goal. It is now up to the Congress to provide the funding to develop and procure the most cost-effective system.

Both efforts, toward theater and national missile defense systems, must balance the critical need for defenses with the reality of fiscal constraints. Every effort should be made to engage our allies both financially and technically in developing these systems.

Mr. President, the threat of proliferation is too great to ignore. We must not replace the nuclear confrontation of the cold war with vulnerability to dictators, extremists, and nations who threaten us with nuclear blackmail, or our forces and allies with missile attack. Without effective, deployed missile defense systems, we remain at risk.

I intend to work with Senator DOLE to achieve early passage of this legislation in the Senate, and I urge President Clinton to approve it to ensure the safety of the American people.

Mr. WARNER. Mr. President, I am proud to join the Republican leadership of both the Senate and the House, and all Republican members of the Senate Armed Services Committee, as an original cosponsor of the Defend America Act of 1996. I call on all Members of Congress to join us in our effort to protect the citizens of the United States from ballistic missile attack.

Earlier this year, President Clinton's veto of the Defense authorization bill forced us to reluctantly drop the important national missile defense provisions that we had included in that bill. At that time, we promised that we would be back with separate legislation to provide for the defense of the United States. With the introduction of today's legislation, we have fulfilled that promise and will continue the fight until this legislation is enacted into law—over President Clinton's veto, if necessary.

Many Americans find it hard to believe that we currently have no system in place which could defend our Nation against even a single intercontinental ballistic missile strike. This, despite the fact that Russia and China currently have the capability to reach our shores with their intercontinental ballistic missiles; and North Korea is well on its way to deploying a long-range missile capable of striking Alaska. In addition, over 30 nations now have short-range ballistic missiles—30 nations, many hostile to the United States. As China's saber rattling against Taiwan continues, we hear reports of veiled threats from China of a missile attack against California—something they are very capable of doing. And today's papers report that Iraq continues to possess Scud missiles.

The need for defenses against these capabilities is clear. The cold war may be over, but the desire of more and more nations to acquire ballistic missiles is growing.

But the Clinton administration believes there is no threat, and they have presented the Congress with a defense budget request which ''slow rolls'' our ballistic missile defense efforts. The American people deserve better.

That is why I have long been in the forefront of the Republican effort to provide both our troops deployed overseas and Americans here at home with adequate defenses to counter the very real threat of ballistic missile attack. I drafted the Missile Defense Act of 1991 which—in the aftermath of the Iraqi Scud missile attacks—set the United States on the path to acquiring and deploying theater and national missile defense systems. I also joined with my Republican colleagues on the Armed Services Committee in drafting the Missile Defense Act of 1995, an update of the earlier Missile Defense Act. Unfortunately, as I mentioned earlier, President Clinton's veto stopped that Republican effort to defend Americans.

The Defend America Act calls for the deployment of a national missile defense (NMD) system to protect the United States against limited, unauthorized or accidental ballistic missile attacks. It is important to emphasize that we are talking about a limited system—one that would provide a highly effective capability against a limited ballistic missile attack. This is precisely the type of defensive system we need to deal with the threats we are facing in the post-cold-war world.

A key difference between the Defend America Act and the missile defense legislation adopted last year, is that the current bill does not require the deployment of a specific NMD system. Rather, it establishes the requirement to deploy a system by a date certain, but leaves it to the Secretary of Defense to propose a plan by March 15, 1997, to implement this requirement. This is a prudent approach which focuses the debate on the real issue—do you want to defend the American people against ballistic missile attacks?

Mr. President, we all remember the Iraqi Scud missile attacks on our forces in Saudi Arabia, and our friends in Israel. I was in Tel Aviv during the last Scud attack—February 18, 1991.

I do not want to see U.S. citizens subjected to the terror I witnessed in Israel. I pray that we never see a time when Americans are forced to carry gas masks around because some madman is threatening our shores. We owe it to our citizens to take action now—before it is too late—to provide them with effective defenses against these types of attacks.

Mr. SMITH. Mr. President, I rise in strong support of the legislation introduced today by Senator DOLE regarding

national missile defense. I am proud to be an original cosponsor, and I want to commend Senator DOLE for his steadfast commitment to defending America.

Mr. President, our Nation is walking a very dangerous tightrope. For reasons that are unknown and certainly inconceivable to most Americans, President Clinton refuses to defend our country against ballistic missiles, even though the technology to do so is available today.

The truth is our Nation is absolutely, completely vulnerable to ballistic missiles. We have no defense whatsoever against a missile targeted on our territory, our industry, our national treasures, or our people. The Patriot missiles that everyone remembers from Desert Storm 5 years ago are not capable of stopping a long-range missile. In fact, they can only defend very small areas against short-range missiles. The Patriot is a point-defense system that we send along with our troops when they go into harm's way.

But here at home we have no defenses against long-range missiles based in China, in Russia, or in North Korea. We have no defenses against the missiles that Iran, Iraq, Syria, and Libya are so vigorously seeking to acquire. That is the truth. That is a fact. And that is unacceptable.

When told of this situation, the vast majority of Americans become enraged. They cannot understand why their elected Representatives would leave them defenseless against the likes of Saddam Hussein, Mu'ammar Qadhafi, or Kim Jong-Il. They cannot understand why the tax dollars that they contribute for national defense are not being used to protect them. Frankly, they have every right to be upset. There is simply no excuse.

The Congress agrees with the American people and took action last year to defend all Americans against ballistic missiles, whatever their source. In the Defense authorization bill for fiscal year 1996, Congress established a program to develop and deploy a national missile defense system for the United States. This program was not some elaborate star wars concept, but rather, a very modest yet capable ground-based system that would provide a limited defense of America against accidental, unauthorized, or hostile missile attacks.

But President Clinton vetoed the Defense bill specifically because of the requirement to defend America. In fact, in his statement of administration policy, the President called national missile defense quote ''unwarranted and unnecessary.''

Mr. President, that is a very insightful quote, and it gets right to the heart of the differences between President Clinton, Presidential candidate BOB DOLE, and the Republican Congress. To President Clinton, providing for the common defense is ''unwarranted and unnecessary.'' To the Congress and Senator DOLE, it is the most fundamental of our constitutional responsibilities.

Simply put, this is a defining issue. It is an issue that defines our Nation's character and commitment to its people. It is an issue that defines the two parties. It is an issue that defines the very basic difference between two men who are seeking the Presidency. It is an issue that history will undoubtedly look back and pass judgment upon and, for better or worse, it is an issue that will define our generation.

Mr. President, if we fail to take action to defend America now, while we still have the chance, we will certainly regret it. At some point in the very near future, we will have waited too long. The theoretical threat of a hostile ballistic missile launch will have become a reality. And we will have no defense against it.

What will it take for President Clinton to recognize this threat? Must a ballistic missile equipped with a chemical, biological, or nuclear warhead rain down upon citizens before he will act? Must tens of thousands of Americans perish before he corrects this terrible vulnerability.

To those of us who are cosponsoring this legislation, the answer is, ''No.'' The time to act is now, not tomorrow. Our Nation is in jeopardy. Ballistic missiles and weapons of mass destruction are spreading throughout the world and we cannot stop them. In fact, some 30 nations currently possess, or are actively acquiring, weapons of mass destruction and the missiles to deliver them.

Just yesterday, the United Nations admitted that Iraq is covertly storing up to 16 ballistic missiles armed with chemical or biological warheads. Iraq is the most inspected and thoroughly monitored country in the world. If we cannot find these missiles in the deserts of Iraq, how can we expect to track them in the mountains and valleys of China, North Korea, Iran, or Syria?

The answer is, We can't, and even if we could, we have no system to counter them. The only solution is to develop missile defenses. This bill does just that, and would require that our Nation deploy a national missile defense system capable of protecting all Americans by the year 2003.

Mr. President, this is not about politics. It is not about partisanship. It is about national security and keeping faith with those who elected us and those who depend upon us to safeguard their lives and property. If we ignore this obligation, we will have failed in our most fundamental constitutional responsibility. To me that is unacceptable. It runs against every principle that I stand for, and as long as I have a breath in my body, I will fight to prevent that from happening.

Mr. President, I want to again thank the distinguished majority leader for bringing this issue before the Senate. He does our Nation a profound service by highlighting the missile defense issue, and I am proud to cosponsor this important legislation.

I yield the floor.

By Mr. HARKIN:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes; to the Committee on Finance.

THE EXPATRIATION TAX REFORM ACT OF 1996

● Mr. HARKIN. Mr. President, the time has come to close one of the most outrageous tax loopholes on our books today. In fact, it is so outrageous, it's hard to believe.

But today a small number of very wealthy individuals—often billionaires—can renounce their U.S. citizenship in order to avoid paying their fair share of taxes. And under current law, those same individuals can still live in the U.S. for up to half a year—tax-free.

That's right. Amazingly, the current tax code has a loophole big enough for the super rich to fly their private jets right through. I call it the Benedict Arnold loophole. You can turn your back on the country that made you rich—to get even richer.

In many cases, those same people come right back to the United States. They spend up to 6 months here and claim to be citizens of another country just so they can skip out on their tax bill.

In one case, for example, a very wealthy American acquired citizenship in Belize, a small country along the Caribbean coast. Soon thereafter, Belize tried to set up a counsel's office in Florida where their new citizen had his factories. That way their new ''counsel'' could live in the U.S. for a large part of the year without paying his U.S. taxes. Ultimately, this was not allowed, but these types of games should be stopped once and for all.

Hard working, tax paying, middle-class Americans have every right to be outraged by these tax loopholes. They are costing Americans about $1.5 billion. And the money these wealthy tax cheats fail to pay is adding to our debt and to the bill that our kids will one day be forced to pay. That's unconscionable.

The bill I am introducing today says enough is enough: It's time to close the Benedict Arnold loophole. My legislation provides that if these so called ''expatriates'' spend 30 days in the United States they must pay their full taxes as a resident alien. Essentially, they would be treated like a resident alien, similar to how a U.S. citizen is treated.

In addition, my bill provides that—upon renouncing their citizenship—these individuals would pay taxes on all of their gains, including those not yet sold. Under current law they can effectively escape paying their fair share of taxes by delaying the sale of their assets through available loopholes. The Senate passed a provision in last year's Budget Reconciliation bill, but it was gutted in conference.

Where there is a problem with a bilateral tax treaty, the Secretary of the Treasury may waive the provision for that individual.

I hope that the bill I am introducing today become law this year. I urge the Senate to support and pass this common sense measure that will save taxpayer $1.5 billion.●

By Mr. PRESSLER (for himself, Mr. GLENN, Mr. D'AMATO, Mr. KERREY, Mr. BENNETT, and Mrs. FEINSTEIN):

S. 1638. A bill to promote peace and security in South Asia; to the Committee on Foreign Relations.

THE SOUTH ASIA PEACE AND SECURITY PROMOTION ACT OF 1996

Mr. PRESSLER. Mr. President, today along with my colleagues, Senators GLENN, D'AMATO, JOHN KERRY, BENNETT, and FEINSTEIN, I am introducing legislation in an effort to restore credibility to our Nation's already damaged nuclear nonproliferation policy. Nonproliferation is one of our most important national security concerns, if not the most important. Even the President admitted last year that no issue is more important to the security of all people than nuclear nonproliferation.

At present, our efforts in this area are tied to another vital goal: the promotion of peace and security in South Asia. I have visited South Asia. I have said before it is a region of striking contrasts—a region of such enormous potential clouded by tension and instability.

As all of us well know, last year President Clinton requested, and Congress agreed to, a one time exception and partial repeal of one our most important nonproliferation laws: the so-called Pressler amendment. The Pressler amendment, approved by Congress in 1985, prohibits United States military and nonmilitary assistance to Pakistan, including arms sales, so long as Pakistan possesses a nuclear explosive device. The Senate had an extensive debate on this subject last fall. As a result of last year's exception—known as the Brown amendment—approximately 370 million dollars' worth of American military goods is scheduled for delivery to Pakistan.

The Brown amendment was very controversial. The central point of the controversy was the fact that the Brown amendment was both waiving and repealing nuclear nonproliferation law without obtaining one concrete nonproliferation concession from Pakistan. We have never provided that kind of exception to any other country before. That was one of the central reasons why I opposed the Brown amendment. I feared it would send the worst possible message: Nuclear proliferation pays.

The Clinton administration lobbied the Congress quite heavily on the Brown amendment. The administration even tried to convince Members of Congress that Pakistan did make a nonproliferation concession. The Clinton administration claimed its support for the Brown amendment was based in part on an understanding it believed it had with the Government of Pakistan. On August 3, 1995, Acting Secretary of State Peter Tarnoff stated the context of this understanding in a letter to the distinguished ranking member and former chairman of the Armed Services Committee, Senator NUNN:

> Pakistan knows that the decision to resolve the equipment problem is based on the assumption that there will be no significant change on nuclear and missile non-proliferation issues of concern to the United States.

Frankly, at the time, I felt the justification was too weak at best and unbelievable at worst. I say that from the standpoint of experience. You see, the Pressler amendment was passed with a similar assurance from Pakistan. Let me remind my colleagues that the Pressler amendment was designed to ensure that Pakistan—at that time our Nation's third largest foreign aid recipient—continued to receive United States assistance. We had an understanding that Pakistan would not develop a bomb program, and in return, we would pass the Pressler amendment so that our existing laws would not result in a United States aid cutoff. As we all know, they did build a bomb program, and continued to receive U.S. taxpayer dollars. So I had some serious misgivings and a sense of foreboding when the Clinton administration stated it was basing its support of the Brown amendment on an assurance from Pakistan.

But that was then, this is now. Now we have a clear, unequivocal statement by the Director of Central Intelligence that Pakistan did not accept the administration's position in August. This is what Director John Deutch told the Senate Select Committee on Intelligence on February 22:

> Mr. Chairman, the intelligence community continues to get accurate and timely information on Chinese activities that involve inappropriate weapons technology assistance to other countries: nuclear technology to Pakistan, M–11 missiles to Pakistan, cruise missiles to Iran.

For the record, I would like to point out that the Director said ''M–11 missiles,'' not ''M–11 missile technology.''

So, the administration's assumption that the Government of Pakistan would freeze development of its bomb program was erroneous. Our intelligence community has found ''accurate and timely information'' that Pakistan has, indeed, made significant changes on nuclear and missile proliferation issues of concern to the United States. The nuclear technology to which Director Deutch alluded would allow Pakistan a 100-percent increase in its capacity to make enriched uranium, the explosive material of nuclear weapons. The M–11s are modern, mobile, nuclear capable ballistic missiles and clearly intended to be the principal delivery system of the Pakistani nuclear weapons system.

With the underlying assumption of the administration's position now destroyed, there is no longer any justification for the administration's support of the Brown amendment. The administration has the authority to put the Brown amendment on hold. Federal law specifically states that if the President determines that a country has delivered or received ''nuclear enrichment equipment, materials or technology,'' no funds may be made available under the Foreign Assistance Act of 1961, which would include military equipment purchased with Foreign Military Sales [FMS]. All the President needs to do is enforce our nonproliferation laws and most, if not all of the military equipment provided by the Brown amendment remains undelivered. That is what I urged the President to do last month.

Sadly, even though Pakistan broke its assurance to the Clinton administration, it has been reported yesterday that the President intends to go through with the transfer. This is stunning news. The Brown amendment alone was a tough blow to our nonproliferation policy. Now the Clinton administration is preparing to cripple our already shaken credibility as an enforcer of nuclear nonproliferation. If that is the President's decision, and I certainly hope he reconsiders, then the law requires that he make an appropriate certification to the Congress. This gives Congress two options: First, it could disapprove of the President's certification. Under the law it would have 30 days to do that. Or, should a certification not be forthcoming, it could enact the legislation I am introducing today. This bill, which I introduce with bipartisan support, simply repeals the Brown amendment.

Mr. President, I believe passage of this legislation is necessary if our Nation's nuclear nonproliferation policy is to have any credibility. Indeed, beyond the simple policy justifications for this legislation, I urge my colleagues to keep in mind the circumstance that brings me to the floor today. As I stated a moment ago, Pakistan's receipt of nuclear technology from China is a sanctionable offense, as is its receipt of M–11 missile technology. What makes these offenses disturbing is that they were occurring while Pakistan was lobbying the administration and Congress to waive and partially repeal nuclear nonproliferation law. Equally disturbing are reports that members of the Clinton administration knew of the ring magnet transfer at that time, but did not divulge this information to members of Congress. The irony would be humorous if the issue wasn't so serious.

I believe that if all my colleagues were aware of this blatant violation of our non-proliferation laws last fall, the Brown amendment would have failed. Indeed, a supporter of the Brown amendment, Congressman DOUG BEREUTER, admitted that if the Brown amendment was reconsidered, its passage would be unlikely. I am confident

enough that this Congress understands the seriousness of this matter and would agree that we need to repeal the Brown amendment or at least suspend its implementation until the underlying policy of the administration is restored—that being the return of the ring magnets and the M–11s from Pakistan to China.

Mr. President, finally a word about South Asia. Also on February 22, CIA Director Deutch named South Asia as his No. 1 worry in the annual world wide threat assessment. He noted, ''the potential for conflict is high.'' Just a few weeks ago, the Washington Post reported that Pakistan is preparing for a possible nuclear weapons test. Even a limited nuclear exchange between Pakistan and India would result in deaths and destruction on an unprecedented scale in world history. Under the circumstances, I feel it would be the height of irresponsibility to allow for military aid to one side in such an unstable environment. The aftermath of the Brown amendment is proof that our relationship with India is impacted by United States nonproliferation policy. Because of India's unsafeguarded nuclear program, there is no United States-Indian agreement for nuclear cooperation. United States military cooperation with India is virtually nonexistent. The United States will not export certain forms of missile equipment and technology to India and any other goods that are related to weapons of mass destruction. It is true that United States sanctions have not been invoked against India, but that is because India has not violated its commitments under United States law.

I stand ready to seek a commonsense approach to improve our relations with all the countries in South Asia. We need a commonsense approach to deal with the problems in that troubled region. Illicit narcotics trafficking, terrorism, economic stagnation, and weapons proliferation are just some of the issues that plague South Asia. We must seek ways to help these countries address all these problems. I am ready to start that process. We can start by repealing the Brown amendment and begin working on an approach that serves the mutual interests of the people of the United States and the people of South Asia.

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. 1638

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

SECTION 1. PROMOTION OF PEACE AND SECURITY IN SOUTH ASIA.

(a) FINDINGS.—Congress makes the following findings:

(1) The American people fervently desire that all the peoples of South Asia enjoy peace and share an increased sense of security.

(2) The peace and security of South Asia are threatened by an arms race, particularly the spread of weapons of mass destruction and their modern delivery systems.

(3) Congress has granted both a one-time exception to and partial repeal of United States nuclear nonproliferation laws in order to permit the Government of Pakistan to receive certain United States military equipment and training and limited economic aid.

(4) The exception and partial repeal was based on direct assurances to the United States Government that ''there will be no significant change on nuclear and missile nonproliferation issues of concern to the United States''.

(5) The Director of Central Intelligence has informed Congress that Pakistan has taken recent delivery of ''nuclear technology'' and ''M–11 missiles'' from the People's Republic of China.

(6) The justification for the exception to and partial repeal of United States nonproliferation laws is no longer valid.

(b) REPEAL.—Section 620E of the Foreign Assistance Act of 1961 (22 U.S.C. 2375) is amended to read as if the amendments made to such section by section 559 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107) had not been made.

Mr. KERRY. Mr. President, last September the Senate approved an amendment offered by Senator BROWN that allowed the administration to deliver hundreds of millions of dollars worth of military equipment to Pakistan. In doing so, we decided to ignore Pakistan's continuing efforts to acquire nuclear weapons and the ballistic missiles to carry them, and we turned our backs on United States non-proliferation law and international arms control agreements. Today, I am pleased to cosponsor a bill being introduced by Senator PRESSLER that will repeal this misguided provision and will help put U.S. nonproliferation policy back on track.

During Senate consideration of the Brown amendment, the proponents, including the administration, argued that transferring the military equipment would remove what had become an irritant in our relations with Pakistan and would result in enhanced cooperation on nonproliferation issues. Unfortunately, the opposite has happened.

Even as we debated the Brown amendment we had clear and convincing evidence that Pakistan had received M–11 ballistic missiles from China—a sanctionable offense under the Missile Technology Control Regime. We now know that Pakistan also has continued to pursue its Nuclear Weapons Program. In an unclassified hearing earlier this year, Director of Central Intelligence John Deutch testified to the Intelligence Committee that he was especially concerned about Pakistani efforts to acquire nuclear technology. Although he did not provide details, the press has reported that last summer China sent Pakistan specialized magnets for use in centrifuges to produce enriched uranium. Such a transfer would violate the 1994 Nuclear Non-Proliferation Act. Finally, Director Deutch told the Intelligence Committee that Pakistan was likely to test a nuclear weapon if India did, hardly the restraint we were promised.

Since the late 1970's the Pakistani Government has repeatedly assured the United States that it does not possess nuclear weapons despite our certainty that it does. As recently as November of 1994, Prime Minister Bhutto said in an interview with David Frost ''We have neither detonated one, nor have we got nuclear weapons.'' Now they are practicing the same deception with regard to acquiring missiles from China. In July of 1995, a press release from the Pakistan Embassy asserted that ''Pakistan has not acquired the M–11 or any other missile from China that violates the Missile Technology Control Regime.'' The evidence to the contrary is, in my opinion, overwhelming.

Pakistan has been a friend and ally of the United States since its independence. But how many times can you let a friend mislead you and how many times can you let a friend put you in danger before you are forced to change the nature of the relationship. This is not a question of whether we want good relations with Pakistan. Of course we do. We want good relations with all countries, but the proliferation of weapons of mass destruction and the delivery systems to carry them is far more important to our national security than relations with any one country. Indeed, this is one of the most important national security issues facing us today.

I congratulate my colleague from South Dakota for his leadership on this issue and I am pleased to cosponsor his legislation. I hope that we can address this issue before the transfer of this equipment is completed.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. WARNER, and Mr. GRAMM):

S. 1639. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare Program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Finance.

MEDICARE SUBVENTION LEGISLATION

Mr. DOLE. Mr. President, today I am pleased to introduce legislation which will demonstrate the cost effectiveness of Medicare reimbursement to the Department of Defense [DOD] for treatment of military beneficiaries age 65 and older. This bill will enable these individuals to enroll in Tricare Prime and be treated in military hospitals.

CURRENT SYSTEM IS FLAWED

As I am sure my colleagues know, Tricare is DOD's new managed health care program. While Tricare has merit, it also has flaws: It bars all Medicare-eligible retirees and family members from enrolling in Tricare Prime. In fact, all career military members and their families eventually will be affected, because even those who enroll now will be dropped from Tricare at age 65, when they become eligible for

Medicare. In my view, this breaks long standing health care commitments to retirees, may increase costs, and affect military readiness.

IDENTIFYING THE PROBLEM

Current law inadvertently encourages DOD and Medicare to work against each other. As the defense budget tightens, DOD has a strong incentive to push older retirees and families out of the military medical system and back into Medicare, although Medicare probably costs both the Government and retirees more money than care under the military system. Theoretically, Medicare-eligible retirees may still use military hospitals on a space-available basis. However, space-available care is rapidly becoming nonexistent as military facilities downsize and Tricare expands across the country.

MEDICARE SUBVENTION IS THE SOLUTION

It seems to me, the solution to this problem is to change the law to allow Medicare subvention, allowing Medicare to reimburse DOD for care provided to older beneficiaries enrolling in Tricare Prime or otherwise using military hospitals.

DEMONSTRATION TEST OF MEDICARE SUBVENTION

We need to demonstrate to the interested parties, Department of Health and Human Services, and Department of Defense, that subvention is indeed a feasible and cost-effective program. Therefore I am introducing the legislation which gives those agencies the authority to conduct such a test. I believe this test will justify implementing subvention and allow those eligible military retirees over 65 to participate in Tricare Prime and receive care in military hospitals.

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. 1639

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

SECTION 1. DEMONSTRATION PROJECT FOR MEDICARE REIMBURSEMENT OF DEPARTMENT OF DEFENSE FOR HEALTH CARE PROVIDED TO MEDICARE-ELIGIBLE BENEFICIARIES UNDER TRICARE.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense and the Secretary of Health and Human Services shall enter into an agreement in order to carry out a demonstration project under which the Secretary of Health and Human Services reimburses the Secretary of Defense, on a capitated basis, from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for certain health care services provided by the Secretary of Defense to medicare-eligible military beneficiaries through the TRICARE program.

(b) PROJECT REQUIREMENTS.—(1)(A) The Secretary of Defense shall budget for and expend on health care services in each region in which the demonstration project is carried out an amount equal to the amount that the Secretary would otherwise budget for and expend on such services in the absence of the project.

(B) The Secretary may not be reimbursed under the project for health care services provided to medicare-eligible military beneficiaries in a region until the amount expended by the Secretary to provide health care services in that region exceeds the amount budgeted for health care services in that region under subparagraph (A).

(2) The agreement between the Secretary of Defense and the Secretary of Health and Human Services shall provide that the cost to the medicare program of providing services under the project does not exceed the cost that the medicare program would otherwise incur in providing such services in the absence of the project.

(3) The authority of the Secretary of Defense to carry out the project shall expire 3 years after the date of the commencement of the project.

(c) REPORTS.—Not later than 14 months after the commencement of the demonstration project under subsection (a), and annually thereafter until the year following the year in which the project is terminated, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress a report on the demonstration project. The report shall include the following:

(1) The number of medicare-eligible military beneficiaries provided health care services under the project during the previous year.

(2) An assessment of the benefits to such beneficiaries of receiving health care services under the project.

(3) A description of the cost-shifting, if any, among medical care programs of the Department of Defense that results from the project.

(4) A description of the cost-shifting, if any, from the Department to the medicare program that results from the project.

(5) An analysis of the effect of the project on the following:

(A) Access to the military medical treatment system, including access to military medical treatment facilities.

(B) The availability of space and facilities and the capabilities of medical staff to provide fee-for-service medical care.

(C) Established priorities for treatment of beneficiaries under chapter 55 of title 10, United States Code.

(D) The cost to the Department of providing prescription drugs to the beneficiaries described in subparagraph (C).

(E) The quality of health care provided by the Department.

(F) Health care providers and medicare-eligible military beneficiaries in the communities in which the project is carried out.

(6) An assessment of the effects of continuing the project on the overall budget of the Department for health care and on the budget of each military medical treatment facility.

(7) An assessment of the effects of continuing the project on expenditures from the medicare trust funds under title XVIII of the Social Security Act.

(8) An analysis of the lessons learned by the Department as a result of the project.

(9) Any other information that the Secretary of Defense and the Secretary of Health and Human Services jointly consider appropriate.

(d) REVIEW BY COMPTROLLER GENERAL.—Not later than December 31 each year in which the demonstration project is carried out under this section, the Comptroller General shall determine and submit to Congress a report on the extent, if any, to which the costs of the Secretary of Defense under the TRICARE program and the costs of the Secretary of Health and Human Services under the medicare program have increased as a result of the project.

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

(1) The term ''medicare-eligible military beneficiary'' means a beneficiary under chapter 55 of title 10, United States Code, who is entitled to benefits under part A of title XVIII of the Social Security Act.

(2) The term ''TRICARE program'' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of that title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 1139

At the request of Mr. LOTT, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1139, a bill to amend the Merchant Marine Act, 1936, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes.

S. 1188

At the request of Mr. SANTORUM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1188, a bill to provide marketing quotas and a price support program for the 1996 through 1999 crops of quota and additional peanuts, to terminate marketing quotas for the 2000 and subsequent crops of peanuts, and to provide a price support program for the 2000 through 2002 crops of peanuts, and for other purposes.

S. 1317

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

S. 1355

At the request of Mr. DORGAN, the name of the Senator from Oregon [Mr.