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2D SESSION

# H. R. 3489

To protect the United States and its Armed Forces, wherever engaged, from ballistic missile attack, to state the policy and priorities of the United States for developing and deploying more effective defenses against ballistic missiles, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 16, 1996

Mr. SPRATT (for himself, Mr. GEPHARDT, Mr. HAMILTON, Mr. DICKS, Mr. SKELTON, Mr. ORTIZ, Mr. BROWDER, Mr. ABERCROMBIE, Mr. EDWARDS, Mr. MEEHAN, Mr. MCHALE, Mr. PETERSON of Florida, Mr. KENNEDY of Rhode Island, Ms. HARMAN, Mr. FAZIO of California, Mr. HOYER, and Mr. REED) introduced the following bill; which was referred to the Committee on National Security, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To protect the United States and its Armed Forces, wherever engaged, from ballistic missile attack, to state the policy and priorities of the United States for developing and deploying more effective defenses against ballistic missiles, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Ballistic Missile De-  
3 fense Act of 1996”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) Short-range theater ballistic missiles threat-  
7 en United States Armed Forces wherever engaged  
8 abroad. Therefore, the expeditious deployment of  
9 theater missile defenses to intercept ballistic missiles  
10 at greater ranges and higher altitudes is the highest  
11 priority among all ballistic missile defense programs.

12 (2) The United States is developing defensive  
13 systems to protect the United States against the  
14 threat of limited ballistic missile attacks. Ground-  
15 based defensive systems are attainable, compliant  
16 with the ABM Treaty, more affordable than spaced-  
17 based interceptors or space-based lasers, and can  
18 protect all of the United States from limited ballistic  
19 missile attack.

20 (3) Defending against ballistic missile attacks  
21 upon our national territory requires not only missile  
22 defenses but arms control agreements and non-  
23 proliferation measures that lower the threat and  
24 curb the spread of ballistic missile technology.

25 (4) The massive retaliatory capability of the  
26 United States deterred the Soviet Union, and any

1 other nation, from launching an attack by interconti-  
2 nental ballistic missiles throughout the Cold War.  
3 The Nuclear Posture Review conducted by the De-  
4 partment of Defense affirms the effectiveness of de-  
5 terrence now and into the future. While the threat  
6 of intentional attack upon the United States has re-  
7 ceded, the risk of an accidental or unauthorized at-  
8 tack by Russia or China remains but is remote.

9 (5) United States arms control agreements (no-  
10 tably the START I Treaty and the START II Trea-  
11 ty, once implemented) will lower the threat to the  
12 United States from large-scale nuclear attack. The  
13 START I Treaty, when fully implemented, will re-  
14 duce deployed warheads by over 40 percent below  
15 1990 levels. By the end of 1996, only Russia, among  
16 the states of the former Soviet Union, will deploy  
17 nuclear weapons. The START II Treaty, if imple-  
18 mented, will reduce warheads deployed in Russia by  
19 66 percent below their levels before the Start I Trea-  
20 ty.

21 (6) As strategic offensive weapons are reduced,  
22 the efficacy and affordability of defensive systems in-  
23 creases, raising the possibility of deterrence based  
24 upon effective defenses rather than deterrence based  
25 solely upon threat of massive retaliation.

1           (7) Countries hostile to the United States (such  
2           as Iraq, Iran, North Korea, and Libya) have mani-  
3           fested an interest in developing ballistic missiles ca-  
4           pable of reaching the United States. These countries  
5           may accelerate the development of long-range mis-  
6           siles if they receive external support, but in the ab-  
7           sence of outside assistance, newly emerging threats  
8           may take as long as 15 years to mature, according  
9           to recent intelligence estimates.

10           (8) The Nuclear Non-Proliferation Treaty, the  
11           Missile Technology Control Regime, the Biological  
12           and Chemical Weapons Convention, and continuing  
13           United States efforts to enforce export controls will  
14           prevent or delay external assistance needed by those  
15           countries to develop intercontinental ballistic missiles  
16           and weapons of mass destruction.

17           (9) The ABM Treaty has added to strategic  
18           stability by restraining the requirement on both  
19           sides for strategic weapons. At the summit in May  
20           1995, the President of the United States and the  
21           President of Russia each reaffirmed his country's  
22           commitment to the ABM Treaty.

23           (10) Abrogating the ABM Treaty to deploy a  
24           noncompliant system will not add to strategic stabil-  
25           ity if it impedes implementation of the START I or

1 START II Treaty. Without the removal of strategic  
2 weapons scheduled by both treaties, the con-  
3 sequences and risks of unauthorized or accidental  
4 launches will remain undiminished, as will the poten-  
5 tial threat of a large-scale attack capable of over-  
6 whelming any defenses deployed.

7 (11) If the nuclear arsenal of the United States  
8 must be maintained at START I levels, significant  
9 unbudgeted costs will be incurred, encroaching on  
10 funds for ballistic missile defenses and other defense  
11 requirements.

12 (12) Should arms control, nonproliferation ef-  
13 forts, and deterrence fail, the United States must be  
14 able to defend itself against limited ballistic missile  
15 attack.

16 (13) Missile defense systems consistent with the  
17 ABM Treaty are capable of defending against lim-  
18 ited ballistic missile attack. Should a national missile  
19 defense system require modification of the ABM  
20 Treaty, the treaty establishes the means for the par-  
21 ties to amend the treaty, which the parties have used  
22 in the past.

1 **SEC. 3. NATIONAL MISSILE DEFENSE POLICY.**

2 (a) IN GENERAL.—It is the policy of the United  
3 States to develop by the year 2000 a National Missile De-  
4 fense System that can be deployed in 2003.

5 (b) CAPABILITY OF SYSTEM.—The National Missile  
6 Defense System to be developed pursuant to subsection  
7 (a) shall be capable, when deployed, of providing a highly  
8 effective defense of the United States against limited bal-  
9 listic missile attacks.

10 (c) TESTING BEFORE DEPLOYMENT.—The system  
11 developed pursuant to subsection (a) shall be rigorously  
12 tested during development.

13 (d) IMPROVEMENTS.—If a decision to deploy the sys-  
14 tem developed pursuant to subsection (a) is not made by  
15 the end of the year 2000, the Secretary of Defense shall  
16 ensure that the system is improved by incorporation of  
17 evolving technology to increase effectiveness and reduce  
18 costs of a subsequent deployment, and that rigorous test-  
19 ing continues.

20 **SEC. 4. BALLISTIC MISSILE DEFENSE PRIORITIES.**

21 The following, in the order listed, shall be the policy  
22 of the United States with respect to the priority for devel-  
23 opment and deployment of ballistic missile defense pro-  
24 grams:

25 (1) First, maintaining the operational readiness  
26 of the Armed Forces, including a good quality of life

1 for servicemembers and their families, and mod-  
2 ernization of weapons systems to ensure mission ef-  
3 fectiveness in the future.

4 (2) Second, as part of such modernization, com-  
5 pleting the development and deployment of essential  
6 theater missile defense (TMD) systems as soon as  
7 practicable.

8 (3) Third, developing by the year 2000 for de-  
9 ployment in the year 2003 the system referred to in  
10 section 3 and section 5(b) and developing for deploy-  
11 ment as soon as practicable the space-based sensors  
12 described in section 5(c).

13 **SEC. 5. NATIONAL MISSILE DEFENSE SYSTEM ARCHITEC-**  
14 **TURE.**

15 (a) **REQUIREMENT FOR NATIONAL MISSILE DE-**  
16 **FENSE PROGRAM.**—To implement the policy established in  
17 section 3, the Secretary of Defense shall initiate a Na-  
18 tional Missile Defense Program, which shall position the  
19 United States, by the end of the year 2000, to be capable  
20 of deploying a National Missile Defense system, as de-  
21 scribed in section 3(b), within three years.

22 (b) **ELEMENTS OF THE NMD PROGRAM.**—The Na-  
23 tional Missile Defense Program shall include the following  
24 elements:

1           (1) A ground-based interceptor system that pro-  
2           vides coverage of the continental United States (in-  
3           cluding Alaska) and Hawaii.

4           (2) Fixed ground-based radars.

5           (3) Space-based sensors.

6           (4) Battle management, command, control and  
7           communications (BM/C<sup>3</sup>).

8 **SEC. 6. IMPLEMENTATION OF NMD PROGRAM.**

9           The Secretary of Defense shall—

10           (1) initiate plans and actions necessary to meet  
11           the deployment readiness goals specified in section  
12           5(a);

13           (2) conduct rigorous integrated system testing  
14           using elements representative of the National Missile  
15           Defense architecture referred to in section 5(b);

16           (3) prescribe and use streamlined acquisition  
17           policies and procedures, in accordance with existing  
18           law, to reduce the cost and increase the efficiency of  
19           developing the system referred to in section 5(b);  
20           and

21           (4) develop technologies that have the potential  
22           of improving the National Missile Defense system  
23           prescribed in section 5(b).

1 **SEC. 7. REPORTING REQUIREMENT.**

2 Not later than March 15, 1997, the Secretary of De-  
3 fense shall submit to Congress a report on the Secretary's  
4 plan for the National Missile Defense Program required  
5 by this Act. The report shall include the following matters:

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

8 (A) a detailed description of the system ar-  
9 chitecture selected for development under sec-  
10 tion 5(b); and

11 (B) a justification of the architecture se-  
12 lected and reasons for the rejection of the other  
13 candidate architectures.

14 (2) The Secretary's estimate of the amount of  
15 appropriations required for research, development,  
16 test, evaluation, and for procurement, for each of  
17 fiscal years 1997 through 2003 in order to achieve  
18 an initial operational capability in 2003.

19 (3) A description of promising technologies to  
20 be pursued in accordance with the requirements of  
21 section 6(4).

22 (4) A determination of the point at which any  
23 activity that is required to be carried out under this  
24 Act would conflict with the terms of the ABM Trea-  
25 ty, together with a description of any such activity,  
26 the legal basis for the Secretary's determination, and

1 an estimate of the time at which such point would  
2 be reached in order to meet an initial operating ca-  
3 pability in the year 2003.

4 **SEC. 8. POLICY REGARDING REDUCTION OF THE THREAT**  
5 **TO THE UNITED STATES FROM WEAPONS OF**  
6 **MASS DESTRUCTION.**

7 (a) MEASURES TO ADDRESS THREATS FROM WEAP-  
8 ONS OF MASS DESTRUCTION.—In order to defend against  
9 weapons of mass destruction by preventing the spread of  
10 fissile materials and other components of weapons of mass  
11 destruction, the President shall—

12 (1) enhance efforts, both unilaterally and in co-  
13 operation with other nations, to prevent terrorist or-  
14 ganizations from obtaining and using weapons of  
15 mass destruction;

16 (2) expedite United States efforts to assist the  
17 Governments of the Russian Federation, Ukraine,  
18 Belarus, and Kazakhstan, as appropriate, in improv-  
19 ing the safety, security, and accountability of fissile  
20 materials and nuclear warheads;

21 (3) undertake additional steps to prevent weap-  
22 ons of mass destruction and their components from  
23 being smuggled into the United States, through the  
24 use of improved security devices at United States  
25 ports of entry, increased numbers of Border Patrol

1 agents, increased monitoring of international bor-  
2 ders, and other appropriate measures;

3 (4) seek the widest possible international adher-  
4 ence to the Missile Technology Control Regime and  
5 pursue to the fullest other export control measures  
6 intended to deter and counter the spread of weapons  
7 of mass destruction and their components; and

8 (5) enhance conventional weapons systems to  
9 ensure that the United States possesses effective de-  
10 terrent and counterforce capabilities against weap-  
11 ons of mass destruction and their delivery systems.

12 (b) MEASURES TO ADDRESS THREATS FROM  
13 ICBMs.—In order to reduce the threat to the United  
14 States from weapons of mass destruction delivered by  
15 intercontinental ballistic missiles, including accidental or  
16 unauthorized launches, the President shall—

17 (1) urge the Government and Parliament of the  
18 Russian Federation to ratify the START II Treaty  
19 as soon as possible, permitting its expeditious entry  
20 into force;

21 (2) pursue with the Government of the Russian  
22 Federation, after START II entry-into-force, a sym-  
23 metrical program of early deactivation of strategic  
24 forces to be eliminated under START II; and

1           (3) work jointly with countries possessing inter-  
2 continental ballistic missiles to improve command  
3 and control technology and operations to the maxi-  
4 mum extent practicable.

5           (c) DEPARTMENT OF DEFENSE PROGRAM.—Consist-  
6 ent with, and in order to complement, the steps to be  
7 taken by the President under subsection (a)(3), the Sec-  
8 retary of Defense shall carry out a program to enhance  
9 the capabilities of the United States relating to the threat  
10 to the United States of a chemical or biological weapons  
11 attack inside the United States by unconventional means.  
12 In carrying out such program, the Secretary shall take  
13 into consideration the assessments and recommendations  
14 of the task force established under subsection (d). The ac-  
15 tivities to be carried out by the Secretary under the pro-  
16 gram shall include the following:

17           (1) Research, development, test, and evaluation  
18 of technologies relating to any of the following:

19           (A) Detection of chemical or biological  
20 weapons.

21           (B) Interception of such weapons.

22           (C) Protection against such weapons.

23           (D) Response to an attack inside the Unit-  
24 ed States using such weapons.

1                   (E) Decontamination of areas affected by  
2                   an attack using such weapons.

3                   (2) Training of personnel for the activities spec-  
4                   ified in subparagraphs (A) through (E) of paragraph  
5                   (1).

6                   (3) Identification of Federal equipment and  
7                   technologies that can be transferred from one Fed-  
8                   eral agency to another agency or to State and local  
9                   agencies consistent with the purposes of the program  
10                  under this subsection.

11                  (d) INTERAGENCY TASK FORCE.—(1) There is here-  
12                  by established in the executive branch an interagency task  
13                  force to assess, and make recommendations concerning,  
14                  the capabilities of the United States relating to the threat  
15                  of a chemical or biological weapons attack inside the Unit-  
16                  ed States by unconventional means.

17                  (2) The task force shall on an ongoing basis assess  
18                  the current state of the United States with respect to each  
19                  of the following and shall identify and recommend poten-  
20                  tial improvements:

21                         (A) The nature of the threat to the United  
22                         States of a chemical or biological weapons attack in-  
23                         side the United States by unconventional means.

1           (B) Capabilities related to detection and inter-  
2           ception of such weapons or the possibility of such an  
3           attack.

4           (C) Capabilities related to protection against  
5           the effects of such an attack.

6           (D) Capabilities related to preparedness for,  
7           and response to, such an attack.

8           (E) Capabilities related to decontamination fol-  
9           lowing such an attack.

10          (F) Public education concerning the dangers of  
11          such an attack and the appropriate response to such  
12          an attack.

13          (3) Membership of the task force shall include rep-  
14          resentatives of the following departments and agencies:

15               (A) The Department of Defense.

16               (B) The Central Intelligence Agency, but only  
17               with respect to assessment of the nature of the  
18               threat.

19               (C) The Department of Justice, including the  
20               Federal Bureau of Investigation and the Immigra-  
21               tion and Naturalization Service.

22               (D) The Federal Emergency Management  
23               Agency.

1           (E) The Department of the Treasury, including  
2           the Customs Service and the Bureau of Alcohol, To-  
3           bacco, and Firearms.

4           (F) The Department of Health and Human  
5           Services, including the Centers for Disease Control.

6           (4) In carrying out its activities, the task force shall  
7           consult regularly with, and shall seek the views of, rep-  
8           resentatives of—

9           (A) State and local government law enforce-  
10          ment authorities; and

11          (B) State and local government emergency  
12          planning authorities.

13          (5) Administrative support for the task force shall be  
14          provided by the Secretary of Defense.

15          (e) ANNUAL REPORT.—The President shall submit to  
16          Congress an annual report on actions by the United States  
17          to comply with the provisions of this section. The first  
18          such report shall be submitted not later than 180 days  
19          after the date of the enactment of this Act.

20          **SEC. 9. POLICY REGARDING THE ABM TREATY.**

21          (a) IN GENERAL.—The President shall—

22                  (1) carry out the policies, programs, and re-  
23                  quirements of this Act in a manner consistent with  
24                  the ABM Treaty or through processes specified with-  
25                  in the ABM Treaty;

1           (2) at an appropriate time, seek amendments to  
2           the ABM Treaty, as provided in Articles XIII and  
3           XIV of the Treaty, if such amendments are required  
4           to deploy the National Missile Defense system pre-  
5           scribed in section 5; and

6           (3) treat any negotiated amendment to the  
7           ABM Treaty as having entered into force only if  
8           such amendment is made in the same manner as a  
9           treaty (including the requirement that ratification by  
10          the United States is subject to the advice and con-  
11          sent of the Senate).

12          (b) MODIFICATIONS RESTRICTING TMD SYSTEMS.—  
13          The United States shall not be bound by any amendment  
14          or other substantive modification to the ABM treaty that  
15          restricts theater ballistic missile defense systems unless—

16               (1) that system is actually flight-tested against  
17               a ballistic missile that exceeds (A) a range of 3,500  
18               kilometers, or (B) a velocity of 5 kilometers per sec-  
19               ond; or

20               (2) the agreement for such modification is  
21               made pursuant to the requirements of section 235 of  
22               the National Defense Authorization Act for Fiscal  
23               Year 1996 (Public Law 104–106; 110 Stat. 231).

1 **SEC. 10. ABM TREATY DEFINED.**

2       For purposes of this Act, the term “ABM Treaty”  
3 means the Treaty between the United States and the  
4 Union of Soviet Socialist Republics on the Limitation of  
5 Anti-Ballistic Missile Systems, signed at Moscow on May  
6 26, 1972, and includes Protocols to that Treaty signed  
7 at Moscow on July 3, 1974, and all Agreed Statements  
8 and amendments to such Treaty in effect.

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