104TH CONGRESS
2nd Session

HOUSE OF REPRESENTATIVES

REPT. 104–583
Part 1

THE DEFEND AMERICA ACT OF 1996

R E P O R T

OF THE

COMMITTEE ON NATIONAL SECURITY
HOUSE OF REPRESENTATIVES

ON

H.R. 3144

together with

DISSENTING VIEWS

MAY 16, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
29–006 CC WASHINGTON : 1996

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DEFEND AMERICA ACT OF 1996

MAY 16, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SPENCE, from the Committee on National Security, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 3144]

[Including cost estimate of the Congressional Budget Office]

The Committee on National Security, to whom was referred the bill (H.R. 3144) to establish a United States policy for the deployment of a national missile defense system, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND BACKGROUND

The proliferation of ballistic missiles and weapons of mass destruction poses a significant threat to the United States, U.S. military forces, and U.S. global interests. The committee is concerned, however, that current Department of Defense (DOD) policies and programs are not sufficiently aggressive in responding to this threat.

The threat to United States military forces abroad has been recognized by the Administration. The March 1996 Annual Report of the Secretary of Defense to the President and the Congress notes that "the threat of ballistic missile use in regional conflicts has grown substantially, and the potential combination of [weapons of mass destruction] with theater ballistic missiles poses serious dangers and complications to the management of regional crises and the prosecution of U.S. strategy for major regional conflicts." The Secretary of Defense has also referred to the threat posed by short-

er-range ballistic missiles as "here and now." Nevertheless, the committee judges the Administration's program for dealing with these shorter-range ballistic missile threats inadequate. Not only has the Theater Missile Defense (TMD) budget request been significantly reduced in recent years, but several of the most promising TMD concepts, such as the Navy's Upper Tier or Wide Area theater defense and the Army's Theater High Altitude Area Defense (THAAD) system, have been delayed, most recently as a result of the Administration's Ballistic Missile Defense (BMD) Program Review. Moreover, the committee believes that the Administration's position in the TMD demarcation negotiations with the Russians will further restrict the U.S. ability to deploy advanced TMD systems. Consequently, the committee is increasingly concerned with the Administration's commitment, expressed by President Clinton at the Nuclear Safety Summit in Moscow last month, to conclude such an agreement by June.

The Administration's program for National Missile Defense (NMD)—a defense of the American homeland—is even more worrisome. There is currently no commitment to deploy a national missile defense. The Administration's change in name of the national missile defense program from "technology readiness" to "deployment readiness" is nothing more than cosmetic. It provides the illusion of progress toward eventual deployment, without the political commitment, fiscal investments, or disciplined programmatic efforts necessary to achieve it. In reality, the Department of Defense plans to spend over eighty percent less for national missile defense programs than the spending levels recommended by the previous Administration—approximately $500 million per year over the next five years. Moreover, according to the March 6, 1996 testimony of the Under Secretary of Defense for Acquisition and Technology, "the department plans to spend the additional $375 million added by the Congress in the fiscal year 1996 appropriation over two years.* * *" This funding stretch-out subverts the clearly expressed will of Congress.

In his December, 1995 veto of H.R. 1530, the National Defense Authorization Act for Fiscal Year 1996, the President stated that the proposed requirement for a national missile defense system addresses a long-range missile threat "that our Intelligence Community does not foresee in the coming decade." The Administration's position is largely based on a November, 1995 National Intelligence Estimate (NIE) on "Emerging Missile Threats to North America During the Next 15 Years." However, as the President's first Director of Central Intelligence, R. James Woolsey, has stated, the NIE's estimate of ballistic missile threats to the United States focused on "a sub-set, and not a particularly useful sub-set, of the strategic problems that are posed for us by other countries' possession of ballistic missiles in the post-Cold War era." In testimony before the committee on March 14, 1996, Mr. Woolsey noted that the intelligence community's focus on missile threats to the continental United States, excluding Alaska and Hawaii, "can lead to a badly distorted and minimized perception of the serious threats we face from ballistic missiles now and in the very near future.* * *" Drawing broad conclusions about the ballistic missile threat to the

United States from an assessment "of such limited scope," he testified, "would be a serious error."

The Administration's decision to abandon plans to deploy a national missile defense is particularly disturbing in light of the range of present and potential missile threats to the United States. Both Russia and China today maintain and are aggressively modernizing nuclear forces capable of destroying American cities. For Russia this includes production of follow-ons to the SS–25 intercontinental ballistic missile (ICBM) and SS–N–20 sea-launched ballistic missile (SLBM). China is producing two types of long-range ICBMs with ranges of approximately 7,000 kilometers and 10,000 kilometers respectively, as well as other strategic systems. Moreover, various "rogue regimes" are seeking a capability to attack the United States using ballistic missiles.

Indeed, senior U.S. intelligence officials have declared that it may not take long for an outlaw regime to acquire the capability to place U.S. targets at risk from ballistic missiles. For instance, on January 10, 1995, the Director of the Defense Intelligence Agency, Lieutenant General James Clapper, testified that North Korean missiles now under development probably have sufficient range to reach targets in Alaska. On January 18, 1995, the then-Acting Director of Central Intelligence, Admiral William Studeman, testified that the proliferation of technology will lead to missiles "that can reach the United States toward the end of this decade and the beginning of [the next] century." Former Director of Central Intelligence Woolsey has also testified that the covert purchase of missiles would provide a "shortcut approach" that may lessen the time it takes to place the United States directly at risk. In addition, he stated that "the acquisition of key production technologies and technical expertise would speed up ICBM development."

Today, as the Secretary of Defense's March 1996 Annual Report to the President and the Congress makes clear, more than 20 countries have or are developing weapons of mass destruction, including nuclear, chemical, and biological weapons. A similar number now possess ballistic missiles, which can be used to deliver these weapons to their targets hundreds or thousands of miles away. Yet, as the Secretary testified before the committee on March 6, 1996, "we have no capability to shoot down any ballistic missiles fired at the United States."

There are numerous reasons why a growing number of nations seek to acquire ballistic missiles and weapons of mass destruction. Such weapons provide a military edge against regional adversaries and serve as symbols of national power and prestige. Ballistic missiles offer small and medium powers—for the first time—a strategic weapon potentially capable of deterring or inflicting tremendous military and political damage on great powers. An adversary armed with ballistic missiles and weapons of mass destruction may deter the United States from undertaking certain actions for fear of retaliation against U.S. regional assets or allies. Long-range ICBMs are even more attractive assets for hostile powers wishing to deter the United States from exercising its power projection capabilities by placing U.S. territory directly at risk and threatening our most valued asset: the American people. This was demonstrated most recently when China warned the United States not to interfere with

its policy of intimidation toward Taiwan, telling a former U.S. defense official that American leaders "care more about Los Angeles than they do about Taiwan." This implicit threat to use nuclear weapons against the United States could have a chilling effect on the future conduct of American foreign and security policy.

The proliferation of these weapons heightens the risk that adversaries will seek to use them or threaten their use against the United States or U.S. allies and interests. For instance, in the Gulf War, Iraq used ballistic missiles against Israel as political weapons in an attempt to draw Israel into the conflict and fracture the allied coalition. Libya recently declared its willingness to fire ballistic missiles at Naples, Italy, the home of the U.S. Sixth Fleet. In fact, Libya launched ballistic missiles against a NATO base in Italy in 1986. Libyan leader Muammar Qaddafi has spoken of his desire to acquire "a deterrent—missiles that can reach New York," and has stated, "We should build this force so that they [the United States] and others will no longer think about an attack." Palestine Liberation Front leader Abu Abbas warned ominously in 1990 that "some day we will have missiles that can reach New York." And Iranian President Hashemi Rafsanjani has called missiles "the most important and the most essential weapons of the world."

In his April 1996 report on "Proliferation: Threat and Response," the Secretary of Defense noted that "the threat of the use of ballistic missiles has grown enormously over the past two decades," and that the proliferation of weapons of mass destruction and the missiles that can be used to deliver them "presents a grave and urgent risk to the United States and our citizens, allies, and troops abroad." The committee is disturbed that the report makes no mention of the role that national missile defense can play in combating this threat to the United States and its citizens. Moreover, the committee is troubled by the fact that the same week this report was released, the Administration declared its intent to use the line-item veto against any effort by Congress to remedy the vulnerability of the American people to ballistic missile attack.

Importantly, the lack of any effective defenses against ballistic missiles may actually serve to encourage hostile states to acquire missile capabilities and makes them the weapon of choice for nations seeking to threaten others. As the International Institute for Strategic Studies in London has concluded, "the ballistic missile, mainly on account of its range, speed and cost relative to that of a manned aircraft, is a favored delivery means for proliferating states and is likely to remain so until a proven anti-ballistic missile defense system has been deployed."

Because of their perceived military and political importance, ballistic missiles are also becoming a valuable export commodity. However, effective ballistic missile defenses can raise the cost and lower the attraction of ballistic missiles to a would-be proliferant by reducing their effectiveness. Missile defenses also provide a hedge against the use of such weapons in the event traditional nonproliferation efforts (e.g., arms control, export controls, sanctions) fail to prevent proliferation. By providing an insurance policy against the use of these weapons, missile defenses could dampen incentives to act (or react) precipitously in a crisis and could pro-

mote the formation of regional defensive alliances that reduce the risk that individual member states will be held hostage to attack.

In addition, the committee is concerned about the possible indigenous development or sale to third parties of space launch vehicles, which can be rapidly converted with little or no warning and only minor modifications to ICBMs capable of delivering nuclear, chemical, or biological warheads against American cities. According to a 1992 statement by Lawrence Gershwin, CIA national intelligence officer for strategic programs, "India, Israel, and Japan have developed space launch vehicles that, if converted to surface-to-surface missiles, are capable of reaching targets in the United States."

Several independent assessments have noted that space launch vehicles could be converted into ICBMs in reasonably short order. For example, a 1993 report of the Proliferation Study Team, chaired by former National Security Director Lieutenant General William Odom (USA, Ret.), concluded that this conversion would require "relatively modest effort" and noted that "the conclusion that the probability is quite low for the emergence of new ballistic missile threats to the United States during this decade or early in the next decade can be sustained only if plausible but unpredictable developments, such as the transfer and conversion of [space launch vehicles], are dismissed or considered of negligible consequence." The System Planning Corporation found in a 1992 report that conversion of space launch vehicles to military ballistic missiles would be "fairly straightforward" and that extending the range of missiles had already been achieved by China, North Korea, Iraq, and Israel. Moreover, a 1992 report prepared by Science Applications International Corporation concluded that "the increasing availability of space launch vehicles and space launch services could result in the ability of certain Third World countries to threaten the continental U.S. with ICBMs carrying nuclear, chemical, or biological payloads in the mid- to late-1990s."

Any booster with the capability to lift a payload into orbit can also be used to deliver weapons of mass destruction on targets thousands of miles away. Thus, through the purchase of space launch vehicles, a nation can acquire a threatening ballistic missile capability under the guise of peaceful activity. In this regard, the committee notes with concern continuing reports that Russia is attempting to market its START-I and START-II systems, which are modified versions of the SS–25 ICBM, as space launch vehicles. The purchase of space launch vehicles is one route by which proliferant states may seek to circumvent existing controls on the transfer of missile technology.

Given the growing ballistic missile threat to the United States, the committee is convinced that the deployment of an affordable and effective national missile defense system is an essential objective of a defense modernization program that adequately supports the requirements of the national military strategy. The committee believes that this Act, the provisions of which are summarized below, is an appropriate response to these concerns and is a responsible and prudent first step toward defending all Americans from the threat of ballistic missile attack.

LEGISLATIVE HISTORY

H.R. 3144, the "Defend America Act of 1996," was introduced on March 21, 1996. The bill was referred to the Committee on National Security and the Committee on International Relations.

Although the Committee on National Security did not hold any hearings specifically on H.R. 3144, several hearings were held this year on the ballistic missile defense issues that are the subject of H.R. 3144. These included two full committee hearings—on February 28, 1996, and March 14, 1996—and three subcommittee hearings (Military Research and Development and Military Procurement)—on February 29, March 7, and March 21.

The committee's February 28 hearing examined the long-range ballistic missile threat to the United States and the requirement for a national missile defense system. Testimony was taken from a panel of outside witnesses, and the chairman of the National Intelligence Council. On March 14, the committee explored issues related to the 1972 Anti-Ballistic Missile (ABM) Treaty, including its relevance and utility in the post-Cold War world and its present and projected impact on U.S. ballistic missile defense programs. The committee heard testimony from another panel of outside witnesses, including the Administration's first Director of Central Intelligence.

The Military Research and Development subcommittee hearings and the joint Military Research and Development and Military Procurement subcommittee hearing focused on the Administration's plans and programs for ballistic missile defense. Witnesses included the Director of the Ballistic Missile Defense Organization, officials from the Office of the Secretary of Defense, service representatives responsible for missile defense programs, and former government officials with experience in ballistic missile defense and ABM Treaty issues.

The hearings conducted in 1996 supplemented an extensive series of hearings the previous year, which culminated in inclusion of similar national missile defense policy guidance in the conference report on H.R. 1530, the National Defense Authorization Act for Fiscal Year 1996 (H. Rept. 104–406). The incorporation of this provision was one of the principal reasons cited by the President for his veto of H.R. 1530 on December 28, 1995. A revised version of this bill, S. 1124, excluding the provision on national missile defense, was subsequently approved by the Congress and submitted to the President, who signed it into law on February 10, 1996.

The aforementioned series of hearings on ballistic missile defense provided the committee with a rich background of information that framed its consideration of H.R. 3144. The bill was marked up on May 1, 1996 and, a quorum being present, reported favorably by a rollcall vote of 31 to 22. One amendment in the nature of a substitute was offered by Mr. Spratt and was defeated by a rollcall vote of 24–29. The individual rollcall results are placed at the end of this report.

SECTION-BY-SECTION ANALYSIS

Section 1—Short Title

This section would identify the legislation as the "Defend America Act of 1996."

Section 2—Findings

This section would establish the rationale for the policy established in the Act. It would note that the threat posed to the United States by the proliferation of ballistic missiles is growing and that the trend is toward longer range missiles, including those with intercontinental reach. It would also find that the United States has the technical capability to develop and deploy a national missile defense system and that such a deployment will help deter countries from seeking long-range missiles. Moreover, it would note that there are ways for determined countries to acquire intercontinental ballistic missiles by means other than indigenous development. This section would also recognize that the danger of an accidental missile launch has not disappeared and that deployment of a national missile defense system will reduce concerns about this threat. It would note that the deployment of a national missile defense system can enhance stability in the post-Cold War era and that the United States and Russia should welcome the opportunity to reduce reliance on threats of nuclear retaliation as the sole basis of stability. Finally, this section would note that the authors of the 1972 Anti-Ballistic Missile Treaty envisioned the need to change the Treaty as circumstances changed, and they provided the mechanisms to do so in the Treaty. The United States and Russia previously considered such changes and should do so again.

Section 3—National Missile Defense Policy

This section would establish U.S. missile defense policy in two areas. It would call for deployment by the end of 2003 of a national missile defense system capable of providing a highly effective defense of U.S. territory against limited, unauthorized, or accidental ballistic missile attacks, which will be augmented to a layered defense as larger and more sophisticated threats emerge. It would also call for a cooperative transition to a regime that is not based on an offensive-only form of strategic stability.

Section 4—National Missile Defense System Architecture

This section would specify the components of the national missile defense system that are to be developed for deployment, including an interceptor system that optimizes defensive coverage of the United States (either ground-based, sea-based, or space-based, or any combination of these basing modes); fixed ground-based radars; space-based sensors, including the Space and Missile Tracking System (formerly known as Brilliant Eyes); and battle management, command, control, and communications.

Section 5—Implementation of National Missile Defense System

This section would specify certain actions that the Secretary of Defense must take in implementing the national missile defense policy. This would include initiating actions necessary to meet the deployment goal; conducting by the end of 1998 an integrated systems test; using streamlined acquisition procedures; and developing a follow-on national missile defense program.

Section 6—Report on Plan for NMD Development and Deployment

This section would require the Secretary of Defense to submit a report to Congress by March 15, 1997, which addresses the Secretary's plan for implementing the national missile defense policy, including a discussion of the NMD architecture selected; the Secretary's estimate of the cost associated with development and deployment of the NMD system; an analysis of follow-on options; and a determination of the point at which NMD development would conflict with the ABM Treaty.

Section 7—Policy Regarding the ABM Treaty

This section would establish policy for amending and otherwise dealing with the ABM Treaty. It would urge the President to pursue high-level discussions with Russia to amend the Treaty and stipulates that any amendment must be submitted for advice and consent. It would also call for the President and Congress to consider U.S. withdrawal from the Treaty if amendments are not produced within one year.

COMMUNICATIONS FROM OTHER COMMITTEES

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, May 1, 1996.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I write with regard to H.R. 3144, the Defend America Act of 1996. H.R. 3144 was introduced on March 21, 1996, and was referred to the Committee on National Security, and in addition, the Committee on International Relations. I understand the Committee on National Security intends to mark up H.R. 3144 on Wednesday, May 1.

The purpose of H.R. 3144 is to establish a U.S. policy for the deployment by the end of 2003 a national missile defense system that is capable of providing a highly-effective defense of the territory of the U.S. against limited, unauthorized or accidental ballistic missile attacks.

The Committee on International Relations has closely reviewed H.R. 3144 and in order to expedite consideration of this measure in the House, the Committee waives its right to take up the bill. I therefore ask that the Committee be discharged from further consideration.

The Committee on International Relations wishes to make clear that the foregoing waiver should not be construed as a waiver of

the Committee's jurisdiction with respect to any of the legislative provisions in H.R. 3144 that fall within its jurisdiction. The Committee also wishes to preserve its prerogatives with respect to any House-Senate conference on this bill and any Senate amendments thereto, including the appointment of an equal number of conferees to those appointed for any other House committee with respect to the provisions of H.R. 3144 which fall within this committee's jurisdiction.

Thank you for your attention to this matter, and I look forward to strongly supporting H.R. 3144 on the House floor.

Sincerely,

BEN GILMAN, *Chairman.*

COMMITTEE POSITION

On May 1, 1996, the Committee on National Security, a quorum being present, approved H.R. 3144, as amended, by a vote of 31 to 22.

FISCAL DATA

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee attempted to ascertain annual outlays resulting from the bill during fiscal year 1997 and the four following fiscal years. The results of such efforts are reflected in the cost estimate prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974, which is included in this report pursuant to clause 2(l)(3)(C) of House rule XI.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 403(a) of the Congressional Budget Act of 1974 is as follows:

MAY 15, 1996.

Hon. FLOYD SPENCE,
Chairman, Committee on National Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3144, the Defend America Act of 1996, as ordered reported by the House Committee on National Security on May 1, 1996. The bill calls for deployment by 2003 of a system to defend the nation against an attack by ballistic missiles, but does not specify how much funding would be available for this purpose. Based on plans and estimates of the Department of Defense, the costs of complying with the bill would total $10 billion over the next five years, or about $7 billion more than is currently programmed for national missile defense.

Through 2010, total acquisition costs would range from $31 billion to $60 billion for a layered defense that would include both ground- and space-based weapons. The wide range in the estimate reflects uncertainty about two factors—the type and capability of a defensive system that would satisfy the terms of the bill, and the

costs of each component of that system. These figures do not include the cost to operate and support the defense after it is deployed. The attachment provides additional details on these estimates.

Section 4 of the Unfunded Mandates Reform Act of 1996 excludes from the application of that bill legislative provisions that are necessary for the national security or the ratification or implementation of international treaty obligations. CBO has determined that the provisions of H.R. 3144 fit within that exclusion.

H.R. 3144 would not affect direct spending or receipts and thus would not be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Raymond Hall and David Mosher.

Sincerely,

JUNE E. O'NEILL, *Director.*

Congressional Budget Office, Budgetary Implications of H.R. 3144, The Defend America Act of 1996

This document addresses the budgetary implications of H.R. 3144, as ordered reported by the House Committee on National Security on May 1, 1996. The Defend America Act of 1996 would require the United States to deploy a national missile defense by the end of 2003 that provides "a highly effective defense of all 50 states against limited, unauthorized and accidental attacks * * * [that would be] augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats as they emerge." Those two requirements form the basis of CBO's estimate. According to the bill the initial defense must include interceptors, ground-based radar, space-based sensors including the Space and Missile Tracking System (SMTS), and a battle management and command and control system to tie the components together. The interceptors can be ground-, sea-, or spacebased. The space-based weapons could be lasers or kinetic energy interceptors (also known as Brilliant Pebbles). The layered defense that would eventually follow, according to the bill's second requirement, would likely be achieved by adding space-based weapons to the ground-based system.

CBO estimates that H.R. 3144 would cost nearly $10 billion over the next five years, or about $7 billion more than is currently programmed for national missile defense. Through 2010, the system would cost between $31 billion and $60 billion. None of the estimates include the cost to operate and support the defense after it is deployed. Our estimates are derived from data provided by the military services and the Ballistic Missile Defense Organization (BMDO). While we have been unable to review many of the details behind those estimates, we believe that they are the best that are currently available. In some cases, though, we adjusted the Department of Defense's (DoD) estimates to better reflect procurement costs and potential risks. For example, we added about $3 billion to hedge against technical and schedule risks in the development programs. We also reduced the estimated cost of deploying 500 space-based interceptors by $6 billion. We did not however, adjust

the estimates to reflect cost increases that typically occur in developing systems that advance the state of the art.

Minimum Requirements and Costs. The low end of the range of estimates reflects what we believe would be the smallest system that would meet both of the bill's principal requirements. As proposed by the Army, the initial defense would consist of 100 interceptors based at Grand Forks, South Dakota. Combined with SMTS, this system would be able to defend all 50 states against an unsophisticated attack of up to 20 warheads under many scenarios, according to BMDO. The interceptors would be armed with the Army's Exoatmospheric Kill Vehicle (EKV). To track incoming warheads, four new phased-array radars would be deployed, one each in Grand Forks, Alaska, Hawaii, and New England.

This initial defense would cost $14 billion—about $8.5 billion for the ground-based system and $5 billion for the SMTS space-based sensors. (The ground-based system could cost roughly $4 billion less if the Air Force's proposal for a Minuteman-based system was adopted.) The upper layer, which would be added sometime after 2006, would employ 500 space-based interceptors similar to Brilliant Pebbles—the less expensive of the two types of space-based weapons. It would make the defense capable of protecting the United States from a more sophisticated attack of up to 60 warheads according to BMDO, and would cost an additional $14 billion. CBO adds another $3 billion to these estimates to hedge against potential risks associated with the development program. Thus, the total cost of the layered defense would be about $31 billion.

Potential Increases in Requirements and Costs. The bill specifies that the defense shall protect the United States against limited or unauthorized attacks, but does not specify how big the attack might be. The high end of the range reflects the costs of a system to protect the United States against a more potent threat—for example, an attack that could have 200 warheads accompanied by sophisticated countermeasures. DoD bases its operational requirement for a national missile defense on such a threat.

CBO assumes that the ground-based layer would include 300 interceptors deployed at 3 sites and would cost $13 billion, or about $4.5 billion more than the costs of meeting the minimum requirements. SMTS satellites would be deployed at a cost of $5 billion. The space-based layer would include a combination of 500 space-based interceptors ($14 billion) and 20 space-based lasers ($25 billion) for maximum effectiveness. Again, $3 billion is added in anticipation of technological and integration problems. The total cost of this high-end layered defense would be about $60 billion. Except for the lasers, this system would be similar to the Global Protection Against Limited Strikes (GPALS) system proposed by past administrations.

Cost Comparison. The estimate for the ground-based systems described above is about two thirds less than previous estimates associated with earlier proposals, for example the GPALS system. The earlier proposals focused on the challenging threat of an unauthorized attack by the Soviet Union. Today the focus is on smaller and less capable threats—as a result the defines components may be somewhat less capable. Past proposals also called for a robust program that included substantial efforts to test the systems and to

reduce and manage the technical and schedule risks associated with such an ambitious development effort. It is unclear how much these efforts can be reduced without increasing risk to unacceptable levels. But if current plans must be revised to include more thorough testing and larger efforts to reduce risks, and if the purpose of the defense evolves into protecting against larger and more sophisticated threats, costs of the ground-based systems could approach those developed for systems like GPALS—thus, costs of the high-end system could greatly exceed $60 billion by 2010.

COMMITTEE COST ESTIMATE

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee takes exception with the Congressional Budget Office (CBO) cost estimate for this bill and offers the following specific points of disagreement and clarification.

First, the CBO estimate fails to account for the fact that H.R. 3144 would not require the acquisition or deployment of a specific National Missile Defense (NMD) architecture. Instead, it would direct the Secretary of Defense to develop an affordable and operationally effective NMD system to defend against limited missile attacks; prescribe and use streamlined acquisition policies and procedures in the procurement of the system; and submit a report to Congress not later than March 15, 1997, on the Secretary's plan for developing and deploying such a system.

In this regard, the committee notes that in testimony before the Committee on National Security in February, 1995, the Secretary of Defense stated that an NMD system capable of defending against limited ballistic missile attacks could be deployed within five years for $5 billion. Yet, the CBO estimate claims that an initial NMD system would cost more than twice that amount. Similarly, the Ballistic Missile Defense Organization has proposed an NMD system architecture that could be deployed in about four years for slightly less than $5 billion. The Air Force has also proposed an NMD system architecture which it believes can be deployed in four years for $2 to $4 billion. Lastly, independent experts believe an NMD system based on upgrades to the Navy's Aegis fleet can be deployed several years for under $5 billion. Therefore, the committee believes that a more appropriate estimate of the likely cost associated with the mandated actions required by H.R. 3144 would approximate those estimates already provided by the Department of Defense.

Further, the CBO estimate provides a cost estimate through the year 2010 for a specific system architecture that includes the most expensive, technologically challenging approach to performing the NMD mission. In fact, no such architecture is mandated by the bill. Instead, the bill grants the Secretary flexibility in determining the appropriate architecture and proposing such to a subsequent Congress. The committee fully expects such a proposal to receive the necessary and appropriate Congressional budgetary scrutiny to ensure that all cost-benefit tradeoffs are properly explored and understood. Therefore, the committee finds the assumption that the Department of Defense would propose and pursue an architecture option that would pose serious affordability concerns and run directly counter to section 4 of the bill to be without basis or logic.

Second, the CBO estimate assumes a "business as usual" approach to the acquisition of an NMD system. This assumption fails to give appropriate weight to section 5 of the bill which directs the Secretary of Defense to "prescribe and use streamlined acquisition policies and procedures" in the procurement of such an NMD system. The Secretary of Defense has testified before the Committee on National Security about the success in using such procedures to dramatically reduce the cost of several new weapons systems, most notably the Joint Direct Attack Munition (JDAM). The committee believes that the aggressive use of streamlined acquisition procedures and commercial practices should produce significantly lower NMD system acquisition costs.

Third, the committee believes that proper consideration of any such estimate must take into account the broader budgetary context. As such, the CBO estimate contains no discussion of the estimated costs for deployment of a NMD system in the context of projected defense spending over the same time period. Such a comparison would indicate that any NMD system, whether it costs $5 billion or $30 billion, would represent a small fraction of the total amount of the funding that will be available for national defense over the deployment period. In fact, deployment of an NMD system would almost certainly require less than one percent of total defense spending over the next five years, irrespective of whether one uses the President's budget or the most recent Concurrent Resolution on the Budget as a basis for comparison. Indeed, the long term acquisition cost for any NMD system is overshadowed by that of many future conventional systems such as the Joint Strike Fighter ($301 billion) or the F–18E/F Super Hornet Strike Fighter ($81 billion). Therefore, the committee believes that when viewed within a broader context, the projected cost of an NMD system becomes less of an issue.

Fourth, the committee believes that any presentation of a cost estimate must recognize that the funds required to deploy an NMD system are already available within the limits established for the national defense budget function contained in the most recent Concurrent Resolution on the Budget. In short, no increase in top-line defense spending would be necessary to field an NMD system. The committee believes that the issue is more appropriately one of determining priorities within existing budgets, not one of adding new spending.

Therefore, the committee believes that the CBO cost estimate inadequately addresses the numerous complex issues associated with estimating the costs associated with this legislation. The committee recognizes that given that this legislation does not authorize or appropriate any funds, the estimation of cost impacts of legislation that merely provides policy direction is inherently difficult. However, the committee believes that the margin for error associated with such estimates is dramatically compounded when they involve hypothetical excursions beyond the actual requirements of the legislation.

INFLATION-IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee concludes that the bill would have no significant inflationary impact.

OVERSIGHT FINDINGS

With respect to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, this legislation results from hearings and other oversight activities conducted by the committee pursuant to clause 2(b)(1) of rule X.

With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974, this legislation does not include any new spending or credit authority, nor does it provide for any increase or decrease in tax revenues or expenditures. The fiscal features of this legislation are addressed in the estimate prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Reform and Oversight pertaining to the subject matter of H.R. 3144.

STATEMENT OF FEDERAL MANDATES

Pursuant to section 423 of Public Law 104–4, this legislation contains no federal mandates with respect to state, local, and tribal governments, nor with respect to the private sector. Similarly, the bill provides no unfunded federal intergovernmental mandates.

ROLLCALL VOTES

In accordance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, rollcall votes were taken with respect to the committee's consideration of H.R. 3144. The record of these votes is attached to this report.

The committee ordered H.R. 3144 reported to the House with a favorable recommendation by a vote of 31–22, a quorum being present.

COMMITTEE ON NATIONAL SECURITY
104TH CONGRESS
ROLL CALL

Amendment Number: **Date: 05/01/96**
HR 3144 Substitute **Offered By: Mr. Spratt**

Voice Vote **Ayes** **Nays**

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Spence		X		Mr. Dellums	X		
Mr. Stump		X		Mr. Montgomery	X		
Mr. Hunter		X		Mrs. Schroeder	X		
Mr. Kasich				Mr. Skelton	X		
Mr. Bateman		X		Mr. Sisisky	X		
Mr. Hansen		X		Mr. Spratt	X		
Mr. Weldon		X		Mr. Ortiz	X		
Mr. Dornan		X		Mr. Pickett	X		
Mr. Hefley		X		Mr. Evans	X		
Mr. Saxton				Mr. Tanner	X		
Mr. Cunningham		X		Mr. Browder	X		
Mr. Buyer		X		Mr. Taylor	X		
Mr. Torkildsen		X		Mr. Abercrombie	X		
Mrs. Fowler		X		Mr. Edwards	X		
Mr. McHugh		X		Mr. Tejeda	X		
Mr. Talent		X		Mr. Meehan	X		
Mr. Everett		X		Mr. Underwood	X		
Mr. Bartlett		X		Ms. Harman	X		
Mr. McKeon		X		Mr. McHale	X		
Mr. Lewis		X		Mr. Geren		X	
Mr. Watts		X		Mr. Peterson	X		
Mr. Thornberry		X		Mr. Jefferson	X		
Mr. Hostettler		X		Ms. DeLauro	X		
Mr. Chambliss		X		Mr. Ward	X		
Mr. Hilleary		X		Mr. Kennedy	X		
Mr. Scarborough		X					
Mr. Jones		X					
Mr. Longley		X					
Mr. Tiahrt		X					
Mr. Hastings		X					

Roll Call Vote Total **24 Aye 29 Nay** **Present**

COMMITTEE ON NATIONAL SECURITY
104TH CONGRESS
ROLL CALL

Final Passage of HR 3144 **Date: 05/01/96**

Voice Vote **Ayes** **Nays**

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Spence	X			Mr. Dellums		X	
Mr. Stump	X			Mr. Montgomery		X	
Mr. Hunter	X			Mrs. Schroeder		X	
Mr. Kasich	X			Mr. Skelton		X	
Mr. Bateman				Mr. Sisisky		X	
Mr. Hansen	X			Mr. Spratt		X	
Mr. Weldon	X			Mr. Ortiz		X	
Mr. Dornan	X			Mr. Pickett		X	
Mr. Hefley	X			Mr. Evans		X	
Mr. Saxton				Mr. Tanner		X	
Mr. Cunningham	X			Mr. Browder	X		
Mr. Buyer	X			Mr. Taylor	X		
Mr. Torkildsen	X			Mr. Abercrombie		X	
Mrs. Fowler	X			Mr. Edwards		X	
Mr. McHugh	X			Mr. Tejeda		X	
Mr. Talent	X			Mr. Meehan		X	
Mr. Everett	X			Mr. Underwood		X	
Mr. Bartlett	X			Ms. Harman		X	
Mr. McKeon	X			Mr. McHale		X	
Mr. Lewis	X			Mr. Geren	X		
Mr. Watts	X			Mr. Peterson		X	
Mr. Thornberry	X			Mr. Jefferson		X	
Mr. Hostettler	X			Ms. DeLauro		X	
Mr. Chambliss	X			Mr. Ward		X	
Mr. Hilleary	X			Mr. Kennedy		X	
Mr. Scarborough	X						
Mr. Jones	X						
Mr. Longley	X						
Mr. Tiahrt	X						
Mr. Hastings	X						

Roll Call Vote Total **31 Aye 22 Nay** **Present**

DISSENTING VIEWS OF HON. RONALD V. DELLUMS

I offer dissenting views on the committee recommendation and report of H.R. 3144, a national missile defense program guideline clearly calculated to breach the ABM Treaty and return the United States to pursuit of a "star wars" missile defense program.

A less extreme formulation for missile defense program activity was met with a Presidential veto on last year's defense authorization bill. The ballistic missile defense issue is also embedded in the committee recommendation and report on H.R. 3230 and I have noted my dissenting views in that report as well.

Despite all of the political rhetoric, there is much more commonality between the administration and the Congress on this issue than the conflict would suggest. Many of the differences between the two approaches are rooted in a perception of the timing of the appearance of a threat to which we would need such a response. This is essentially a function of risk management, and how to determine what type of "insurance policy" we wish to purchase against such a future contingency. What is less focused on but should be very central to the debate, is the cost and character of the alternative "insurance policies" that are available to the Nation. And this is where the parties diverge.

The administration's current ballistic missile defense plan can provide for an affordable defense against limited ballistic missile threats before those threats will emerge. It does so in a way that anticipates likely changes in the threat from today's estimates. It also does so in a way that avoids becoming trapped in a technological cul-de-sac by a premature deployment of a potentially misdirected system.

The committee recommendation and its report would unfocus U.S. efforts by pursuing space-based interceptors without regard to ABM Treaty requirements, START treaty considerations and the threat reduction and strategic stability goals that the treaties promise.

The known stockpiles held by Russia and China which have been deterred for years by our strategy of mutual assured deterrence, and they will continue to be so deterred. Nothing has changed in the strategic environment that would suggest that the basic understanding that led both superpowers to conclude that the ABM Treaty served their security interests has changed. And, as I have pointed out above, the administration's plans will lead us to a deployable plan before any other threat will reasonably emerge.

This recommendation commits us to an incredibly expensive and ultimately unaffordable path. Both the department's 3+3 program and the Spratt substitute provide for a more capable missile defense system when deployed, and one that is affordable within current budget projections. It blends arms control and counterproliferation activities with deterrence and missile intercept

capabilities. It thus pursues the most effective approach to missile defense, preventing missiles from being deployed at all, while providing a prudent "insurance policy" against limited but as of yet non-existent threats.

The overreliance by the committee recommendation on a "hardware" solution to intercept incoming missiles in the final minutes of their flight time, risks constructing a very expensive 21st Century Maginot Line. Such a defense strategy may well prove as ineffective to the 21st Century threats we might face, as the original Maginot Line was in defending France during World War II.

Therefore, I urge my colleagues to support the Spratt substitute and oppose the committee recommendation.

RONALD V. DELLUMS.

DISSENTING VIEW OF HON. JOHN SPRATT

Before stating why I dissent, I want to emphasize the commonality between H.R. 3144 and the substitute I offered. Both call for a national missile defense system that can be deployed by the year 2003. Both see the potential threat to the United States posed by intercontinental ballistic missiles, and both stress the importance of defending against such a threat. –

The operative sentence in my substitute is in Section 3: "It is the policy of the United States to develop by the year 2000 a National Missile Defense System that can be deployed in 2003." –

This objective does not differ much from H.R. 3144. My substitute is preferable because it comes closer to achieving the stated purpose of both bills.–

We are not without national missile defenses today because of a lack of funding. More than $35 billion has been pumped into strategic defense since President Reagan's speech on March 23, 1983. The problem has been a lack of focus more than a lack of funding. My substitute to H.R. 3144 focuses national missile defense on the one system attainable in the near-term: a system of ground-based, treaty-compliant interceptors. H.R. 3144, on the other hand, sends the Secretary of Defense in pursuit of four different systems: ground-based interceptors, sea-based interceptors, space-based kinetic energy interceptors, and space-based directed energy systems. This diffuses scarce dollars, and wastes money on futuristic technologies (such as space-based lasers and "Brilliant Pebbles") that are not attainable in the near-term, if ever. It also siphons development money off the most feasible system: ground-based interceptors.–

By focusing on a single architecture—ground-based interceptors—my substitute ensures that we will have the most effective system possible by the year 2000. If the system developed proves its mettle in testing, and if the threat warrants, this system can be deployed by 2003, the same date set by H.R. 3144. –

If in the year 2000 we decide not to work toward deployment in the year 2003, my substitute directs that we not quit, but keep on upgrading the system with new technology and rigorous testing. This will ensure that we can have the best possible system ready to build and deploy whenever we perceive the need. –

Right now, the most effective step we can take toward reducing the threat of missile attack is to implement START I and START II. While the findings of H.R. 3144 refer to START I, there is no reference to START II and the importance of lowering the nuclear arsenal of the former Soviet Union by 66% from the levels during the Cold War. –

The arsenal of the former Soviet Union still poses the greatest danger to this country, whether by premeditated attack from a hostile Russian government, or by an accidental or unauthorized

launch, or by spread of Russian nuclear materials, weapons, or missile components to nations hostile to the United States. We will not reduce this threat if we broadcast our intent to abandon the ABM Treaty before START II is ratified and on its way to being implemented. H.R. 3144 is littered with provisions inconsistent with the ABM Treaty and unnecessarily risks START II ratification.

JOHN SPRATT.

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