

114TH CONGRESS
2D SESSION

S. 2887

To require the Missile Defense Agency to conduct annual tests of the ground-based midcourse defense element of the ballistic missile defense system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2016

Mr. SULLIVAN introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To require the Missile Defense Agency to conduct annual tests of the ground-based midcourse defense element of the ballistic missile defense system, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Missile Defense Defend
5 and Deter Act of 2016”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) It is in the highest strategic interest of the
2 United States to field a fully operational missile de-
3 fense system to defend against threats from inter-
4 continental ballistic missiles (ICBMs) of rogue na-
5 tions, including North Korea and Iran.

6 (2) In the past year, the Democratic People's
7 Republic of Korea tested a nuclear weapon and an
8 intercontinental ballistic missile and has made
9 claims that it now possesses the ability to minia-
10 turize a nuclear warhead.

11 (3) The ground-based midcourse defense
12 (GMD) element of the ballistic missile defense sys-
13 tem (BMDS) is one of the most critical capabilities
14 needed to defend the United States against threats
15 from intercontinental ballistic missiles, conventional
16 and nuclear.

17 (4) The test program of the Missile Defense
18 Agency provides vital data to demonstrate the oper-
19 ational effectiveness, suitability, and survivability of
20 the ballistic missile defense system, and it contrib-
21 utes to United States nonproliferation goals by send-
22 ing a very credible message to the international com-
23 munity on the ability of the United States to defeat
24 ballistic missiles in flight, thus reducing their value
25 to potential adversaries.

1 **SEC. 3. REQUIRED TESTING BY MISSILE DEFENSE AGENCY**
2 **OF GROUND-BASED MIDCOURSE DEFENSE**
3 **ELEMENT OF BALLISTIC MISSILE DEFENSE**
4 **SYSTEM.**

5 (a) TESTING REQUIRED.—Except as provided in sub-
6 section (c), not less frequently than once each fiscal year,
7 the Director of the Missile Defense Agency shall admin-
8 ister an intercept flight test of the ground-based mid-
9 course defense element of the ballistic missile defense sys-
10 tem.

11 (b) REQUIREMENTS.—The Director shall ensure that
12 each test carried out under subsection (a) provides, when
13 possible, for one or more of the following:

14 (1) Validation of the operational effectiveness of
15 the ground-based midcourse defense element of the
16 ballistic missile defense system.

17 (2) Use of assets in their operational configura-
18 tion against an inventory of targets to assess all as-
19 pects of ground-based midcourse defense elements of
20 the ballistic missile defense system performance in a
21 variety of flight test regimes.

22 (3) Use of operational doctrine and real-world
23 constraints.

24 (4) Evaluation of new concepts of operations
25 and exercising tactics, techniques, and procedures.

1 (5) Mechanisms to assure the confidence of
2 members of the Armed Forces in the basic design of
3 the ground-based midcourse defense element of the
4 ballistic missile defense system, its hit-to-kill effec-
5 tiveness, and its inherent operational capability.

6 (c) EXCEPTIONS.—

7 (1) NONINTERCEPT TEST.—The Director may
8 forgo a test under subsection (a) in a fiscal year if
9 the Secretary of Defense, in consultation with the
10 Director, determines that conducting the test
11 would—

12 (A) jeopardize national security;

13 (B) not be successful due to specific
14 ground-based midcourse defense components
15 needing a nonintercept test; and

16 (C) likely lead to failure due to impractical
17 time considerations.

18 (2) FUNDING.—The Director may forgo a test
19 under subsection (a) in a fiscal year if the Secretary
20 of Defense, in consultation with the Director, deter-
21 mines that the test is not sufficiently funded.

22 (3) NATIONAL SECURITY WAIVER.—

23 (A) IN GENERAL.—The Director may forgo
24 a test under subsection (a) in a fiscal year if
25 the Secretary of Defense, in consultation with

1 the Director of the Missile Defense Agency, Di-
2 rector of National Intelligence, and the Com-
3 mander of United States Northern Command
4 (NORTHCOM), determines that the provision
5 of testing as described in that subsection is det-
6 rimental to the national security interests of the
7 United States.

8 (B) NOTICE REQUIRED.—

9 (i) IN GENERAL.—Not later than 30
10 days after forgoing a test pursuant to sub-
11 paragraph (A), the Secretary shall submit
12 to the congressional defense committees
13 notice regarding the foregone test.

14 (ii) ELEMENTS.—Notice submitted
15 under clause (i) shall include the following:

16 (I) The rationale for forgoing the
17 test.

18 (II) The national security inter-
19 ests of the United States preventing
20 the test.

21 (III) A plan to complete the
22 intercept test in the following fiscal
23 year, which does not affect testing in
24 following fiscal years.

- 1 (iii) FORM.—Each notice under clause
2 (ii) shall be submitted in an unclassified
3 form, but may include a classified annex.
- 4 (d) CONGRESSIONAL DEFENSE COMMITTEES DE-
5 FINED.—In this section, the term “congressional defense
6 committees” has the meaning given that term in section
7 101(a)(16) of title 10, United States Code.

