

112TH CONGRESS
1ST SESSION

H. R. 1750

To strengthen the strategic force posture of the United States by implementing and supplementing certain provisions of the New START Treaty and the Resolution of Ratification, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2011

Mr. TURNER (for himself and Mr. McKEON) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Foreign Affairs, 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

A BILL

To strengthen the strategic force posture of the United States by implementing and supplementing certain provisions of the New START Treaty and the Resolution of Ratification, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “New START Treaty Implementation Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.
 Sec. 3. Use of funds on the modernization of nuclear weapons.
 Sec. 4. Limitation on nuclear force reductions.
 Sec. 5. Nuclear employment strategy.
 Sec. 6. Force analysis and assessment of the capabilities of the nuclear forces of the United States.
 Sec. 7. Annual assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system.
 Sec. 8. Missile defense.
 Sec. 9. Annual report on the plan for the modernization of the nuclear weapons stockpile, nuclear weapons complex, and delivery platforms.
 Sec. 10. Chemistry and Metallurgy Research Replacement nuclear facility and Uranium Processing Facility.
 Sec. 11. Policy on non-nuclear weapons systems.
 Sec. 12. Non-strategic nuclear weapon reductions and extended deterrence policy.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) The term “congressional defense commit-
 4 tees” has the meaning given that term in section
 5 101(a)(16) of title 10, United States Code.

6 (2) The term “covered nuclear systems” means
 7 the following:

8 (A) B–52H or B2 bomber aircraft and nu-
 9 clear air-launched cruise missiles.

10 (B) Trident ballistic missile submarines,
 11 launch tubes, and Trident D–5 submarine-
 12 launched ballistic missiles.

13 (C) Minuteman III intercontinental bal-
 14 listic missiles and associated silos.

15 (D) Nuclear warheads or gravity bombs
 16 that can be delivered by the systems specified
 17 in subparagraph (A), (B), or (C).

1 (E) Nuclear weapons delivered by means
2 other than the systems specified in subpara-
3 graph (A), (B), or (C).

4 (3) The term “New START Treaty” means the
5 Treaty between the United States of America and
6 the Russian Federation on Measures for the Further
7 Reduction and Limitation of Strategic Offensive
8 Arms, signed on April 8, 2010.

9 **SEC. 3. USE OF FUNDS ON THE MODERNIZATION OF NU-**
10 **CLEAR WEAPONS.**

11 (a) FINDINGS.—Congress finds the following:

12 (1) The President of the United States, in a
13 letter dated December 18, 2010, declared that, “I
14 recognize that nuclear modernization requires invest-
15 ment for the long-term, in addition to this one-year
16 budget increase. That is my commitment to the Con-
17 gress that my Administration will pursue these pro-
18 grams and capabilities for as long as I am Presi-
19 dent. In future years, we will provide annual updates
20 to the [report required under section 1251 of the
21 National Defense Authorization Act for Fiscal Year
22 2010 (Public Law 111–84; 123 Stat. 2549)].”.

23 (2) Article 5, Section 1 of the New START
24 Treaty declares that, “Subject to the provisions of

1 this Treaty, modernization and replacement of stra-
2 tegic offensive arms may be carried out.”.

3 (3) The Secretary of Defense declared on Octo-
4 ber 28, 2008, that, “To be blunt, there is absolutely
5 no way we can maintain a credible deterrent and re-
6 duce the number of weapons in our stockpile without
7 either resorting to testing our stockpile or pursuing
8 a modernization program.”.

9 (4) The November 2010 update to the report
10 required under section 1251 of the National Defense
11 Authorization Act for Fiscal Year 2010 (Public Law
12 111–84; 123 Stat. 2549) said that, “Notably, stock-
13 pile requirements to fully implement the [Nuclear
14 Posture Review] and the New START Treaty have
15 been refined . . . Based on this additional work, and
16 the development of new information and insights,
17 the President is prepared to seek additional re-
18 sources for the Weapons Activities account, over and
19 above the FY2011 FYNSP, for the FY 2012 budget
20 and for the remainder of the FYNSP period
21 (FY2013 to FY 2016). Specifically, the President
22 plans to request \$7.6 billion for FY 2012 (an in-
23 crease of \$0.6 billion over the planned FY 2012
24 funding level . . .). Given the extremely tight budget
25 environment facing the Federal Government, these

1 requests to the Congress demonstrate the priority
2 the [Administration] places on maintaining the safe-
3 ty, security, and effectiveness of the deterrent.”.

4 (5) The Stockpile Stewardship Management
5 Plan for Fiscal Year 2011, dated May 2010, said
6 that, “The Laboratory Directors will be expected to
7 provide findings associated with the full range of
8 [life extension program] approaches, and to make a
9 set of recommendations based solely on their best
10 technical assessments of the ability of each [life ex-
11 tension program] approach to meet critical stockpile
12 management goals (weapons system safety, security,
13 and effectiveness).”.

14 (b) SENSE OF CONGRESS.—

15 (1) IN GENERAL.—It is the sense of Congress
16 that the life extension program deadlines described
17 in paragraph (2) represent important deadlines that
18 must be met to sustain a safe, secure, and reliable
19 nuclear stockpile and credible deterrent.

20 (2) DEADLINES DESCRIBED.—The life exten-
21 sion program deadlines described in this paragraph
22 are the deadlines identified in the November 2010
23 update to the report required under section 1251 of
24 the National Defense Authorization Act for Fiscal

1 Year 2010 (Public Law 111–84; 123 Stat. 2549) as
2 follows:

3 (A) Completion of the W76 build in fiscal
4 year 2018.

5 (B) Completion of the first production unit
6 of the B–61 in fiscal year 2017.

7 (C) Beginning of the study of life exten-
8 sion options for the W78 in fiscal year 2012.

9 (D) Beginning of the study of a common
10 warhead for the W78 and the W88 in fiscal
11 year 2012.

12 (E) Beginning of the development of an
13 Arming, Fuzing, and Firing system for the
14 W88 in fiscal year 2012.

15 (c) POLICY.—It is the policy of the United States—

16 (1) to accomplish the modernization and re-
17 placement of the nuclear triad;

18 (2) to sustain a robust stockpile stewardship
19 program and to maintain and modernize the nuclear
20 weapons production capabilities and capacities that
21 will both—

22 (A) ensure the safety, reliability, and per-
23 formance of the nuclear weapons of the United
24 States at the New START Treaty levels; and

1 (B) meet requirements for hedging against
2 possible international developments or technical
3 problems, in conformance with the policies of
4 the United States and in support of nuclear de-
5 terrence, extended deterrence, assurance, and
6 defense;

7 (3) to maintain the nuclear weapons labora-
8 tories of the United States and preserve the core nu-
9 clear weapons competencies of such laboratories;

10 (4) that the President should not take any ac-
11 tion to retire or dismantle (or to prepare to retire
12 or dismantle) any of the covered nuclear systems un-
13 less modernization or replacement is occurring as
14 proposed in the plans under the report required by
15 section 1251 of the National Defense Authorization
16 Act for Fiscal Year 2010 (Public Law 111–84; 123
17 Stat. 2549), the November 2010 update to such re-
18 port, and the reports required under section 495 of
19 title 10, United States Code, as added by section 9;
20 and

21 (5) that if the modernization plan is not funded
22 consistent with the annual report required under
23 such section 495, such failure would jeopardize the
24 supreme interests of the United States and is poten-
25 tial grounds for the withdrawal of the United States

1 from the New START Treaty in accordance with
2 Article XIV of such Treaty.

3 (d) **AUTHORIZATION OF APPROPRIATIONS.**—Funds
4 are hereby authorized to be appropriated to the Depart-
5 ment of Energy for fiscal year 2012 for the activities of
6 the National Nuclear Security Administration in carrying
7 out programs necessary for national security in the
8 amount of \$11,782,930,000, of which \$7,629,716,000
9 shall be for weapons activities of the National Nuclear Se-
10 curity Administration.

11 **SEC. 4. LIMITATION ON NUCLEAR FORCE REDUCTIONS.**

12 (a) **FINDINGS.**—Congress finds the following:

13 (1) As of September 30, 2009, the stockpile of
14 nuclear weapons of the United States has been re-
15 duced by 84 percent from its maximum level in 1967
16 and by more than 75 percent from its level when the
17 Berlin Wall fell in November 1989.

18 (2) The number of non-strategic nuclear weap-
19 ons of the United States has declined by approxi-
20 mately 90 percent from September 30, 1991, to Sep-
21 tember 30, 2009.

22 (3) On March 29, 2011, the Assistant to the
23 President for National Security Affairs stated, “As
24 we implement New START, we’re making prepara-
25 tions for the next round of nuclear reductions.

1 Under the President’s direction, the Department of
2 Defense will review our strategic requirements and
3 develop options for further reductions in our current
4 nuclear stockpile, which stands at approximately
5 5,000 warheads, including both deployed and reserve
6 warheads. To develop these options for further re-
7 ductions, we need to consider several factors, such
8 as potential changes in targeting requirements and
9 alert postures that are required for effective deter-
10 rence.”.

11 (b) IMPLEMENTATION OF NEW START TREATY.—

12 (1) LIMITATION.—

13 (A) Except as provided by paragraph (2),
14 the Secretary of Defense and the Secretary of
15 Energy may not obligate or expend amounts ap-
16 propriated or otherwise made available to the
17 Department of Defense or the Department of
18 Energy for any of fiscal years 2011 through
19 2017 to retire any covered nuclear system of
20 the United States as required by the New
21 START Treaty.

22 (B) Nothing in subparagraph (A) shall be
23 construed to limit any action (including
24 verification) required by the New START Trea-

1 ty other than retiring any covered nuclear sys-
2 tem of the United States.

3 (2) WAIVER.—The Secretary of Defense and
4 the Secretary of Energy may jointly waive the limi-
5 tation under paragraph (1)(A) for a covered nuclear
6 system if—

7 (A) the Secretaries submit to the congress-
8 sional defense committees written notice of the
9 status of carrying out the modernization plan
10 described in the most recent report required by
11 section 495 of title 10, United States Code, as
12 added by section 9; and

13 (B) with respect to such notice—

14 (i) if the notice describes that such
15 plan is being carried out, a period of 30
16 days has elapsed following the date on
17 which the President submits to the con-
18 gressional defense committees such report
19 that includes written notice of the pro-
20 posed retirement of such nuclear system,
21 as required by subsection (a)(1)(D) of such
22 section 495; or

23 (ii) if the notice describes that such
24 plan is not being carried out, a period of
25 180 days has elapsed following the date on

1 which the President submits to the con-
2 gressional defense committees the report
3 described in clause (i).

4 (3) RETIRE DEFINED.—In this subsection, the
5 term “retire”, with respect to a covered nuclear sys-
6 tem, includes retiring, dismantling, eliminating or
7 preparing to retire, dismantle, or eliminate.

8 (c) PROHIBITION ON REDUCTION OF STOCKPILE
9 HEDGE.—The Secretary of Defense and the Secretary of
10 Energy may not obligate or expend amounts appropriated
11 or otherwise made available to the Department of Defense
12 or the Department of Energy to retire, dismantle, or elimi-
13 nate, or prepare to retire, dismantle, or eliminate, any
14 nondeployed strategic or non-strategic nuclear weapon
15 until the date that is 90 days after the date on which the
16 Secretary of Energy submits to the congressional defense
17 committees written certification that—

18 (1) the Chemistry and Metallurgy Research Re-
19 placement nuclear facility (in this subsection re-
20 ferred to as the “nuclear facility”) and the Uranium
21 Processing Facility (in this subsection referred to as
22 the “processing facility”) are fully operational;

23 (2) the nuclear facility and the Plutonium Fa-
24 cility–4 are together able to deliver to the nuclear

1 weapons stockpile not less than a total of 80 pits per
2 year; and

3 (3) the processing facility is able to deliver to
4 the nuclear weapons stockpile not less than 80 refurb-
5 ished or new canned subassemblies per year.

6 (d) PROHIBITION ON UNILATERAL REDUCTION OF
7 NUCLEAR WEAPONS.—

8 (1) IN GENERAL.—Part I of subtitle A of title
9 10, United States Code, is amended by adding at
10 the end the following new chapter:

11 **“CHAPTER 24—NUCLEAR POSTURE AND**
12 **MISSILE DEFENSE**

“Sec.

“491. Prohibition on unilateral reduction of nuclear weapons.

13 **“§ 491. Prohibition on unilateral reduction of nuclear**
14 **weapons**

15 “The President may not retire, dismantle, or elimi-
16 nate, or prepare to retire, dismantle, or eliminate, any nu-
17 clear weapon of the United States (including such de-
18 ployed weapons and nondeployed weapons and warheads
19 in the nuclear weapons stockpile) if such action would re-
20 duce the number of such weapons to a number that is
21 less than the level described in the New START Treaty
22 (as defined in section 494(c)) unless such action is—

23 “(1) required by a treaty or international agree-
24 ment specifically approved with the advice and con-

1 sent of the Senate pursuant to Article II, section 2,
2 clause 2 of the Constitution; or

3 “(2) specifically authorized by an Act of Con-
4 gress.”.

5 (2) CLERICAL AMENDMENTS.—The table of
6 chapters at the beginning of subtitle A of title 10,
7 United States Code, and at the beginning of part I
8 of such subtitle, are each amended by inserting after
9 the item relating to chapter 23 the following new
10 item:

“**24. Nuclear posture and missile defense 491**”.

11 **SEC. 5. NUCLEAR EMPLOYMENT STRATEGY.**

12 (a) FINDINGS.—Congress finds the following:

13 (1) Section 1057 of H.R. 5136, as passed by
14 the House of Representatives during the 111th Con-
15 gress, included a requirement that any future reduc-
16 tions of the nuclear forces of the United States
17 below the level described in the New START Treaty
18 be contingent on the certification by the Secretary of
19 Defense that “such reduction does not require a
20 change in targeting strategy from counterforce tar-
21 geting to countervalue targeting”.

22 (2) On March 29, 2011, the Assistant to the
23 President for National Security Affairs stated, “As
24 we implement New START, we’re making prepara-
25 tions for the next round of nuclear reductions.

1 Under the President’s direction, the Department of
2 Defense will review our strategic requirements and
3 develop options for further reductions in our current
4 nuclear stockpile, which stands at approximately
5 5,000 warheads, including both deployed and reserve
6 warheads. To develop these options for further re-
7 ductions, we need to consider several factors, such
8 as potential changes in targeting requirements and
9 alert postures that are required for effective deter-
10 rence.”.

11 (b) CHANGES TO STRATEGY.—Chapter 24 of title 10,
12 United States Code, as added by section 4, is further
13 amended by adding at the end the following new section:

14 **“§ 492. Nuclear employment strategy**

15 “The President may not make any changes to the nu-
16 clear employment strategy of the United States unless—

17 “(1) the President submits to the congressional
18 defense committees a report on such proposed
19 changes, including—

20 “(A) the implication of such changes on
21 the flexibility and resilience of the strategic
22 forces of the United States and the ability of
23 such forces to support the goals of the United
24 States with respect to nuclear deterrence, ex-
25 tended deterrence, assurance, and defense; and

1 “(B) certification that such proposed
2 changes do not require a change in targeting
3 strategy from counterforce targeting to counter-
4 value targeting; and

5 “(2) a period of 90 days has elapsed after the
6 date on which such report under paragraph (1) is
7 submitted.”.

8 (c) CLERICAL AMENDMENT.—The table of sections
9 at the beginning of such chapter is amended by inserting
10 after the item relating to section 491 the following new
11 item:

 “492. Nuclear employment strategy.”.

12 **SEC. 6. FORCE ANALYSIS AND ASSESSMENT OF THE CAPA-**
13 **BILITIES OF THE NUCLEAR FORCES OF THE**
14 **UNITED STATES.**

15 (a) IN GENERAL.—Not later than March 1, 2012, the
16 Secretary of Defense shall conduct a force analysis and
17 net assessment of the current and proposed nuclear forces
18 of the United States to determine whether such forces are
19 capable of meeting the nuclear deterrence, extended deter-
20 rence, assurance, and defense objectives of the United
21 States in the context of the current and anticipated nu-
22 clear and non-nuclear forces of the Russian Federation
23 and other countries.

24 (b) ELEMENTS.—The force analysis and net assess-
25 ment under subsection (a) shall include the following:

1 (1) Specific metrics to define and measure the
2 strategic sufficiency of the nuclear forces of the
3 United States and the sufficiency of forces necessary
4 to meet the nuclear deterrence, extended deterrence,
5 assurance, and defense requirements of the United
6 States.

7 (2) An identification and assessment of the nu-
8 clear strategies of the United States, and the role of
9 nuclear weapons in those strategies, as of the date
10 of the force analysis and net assessment, including—

11 (A) how the United States is prepared to
12 limit damage to the United States and its allies
13 if deterrence fails; and

14 (B) if the United States requires such ca-
15 pabilities, an assessment of such capabilities.

16 (3) An identification of the nuclear force pos-
17 ture of the United States required to fulfill the nu-
18 clear deterrence, extended deterrence, assurance,
19 and defense strategies of the United States, includ-
20 ing the planning assumptions on which such posture
21 is based.

22 (4) Force-on-force exchange modeling analyses
23 to determine the vulnerability, survivability, and ef-
24 fectiveness of current and proposed nuclear capabili-
25 ties of the United States in various scenarios (in-

1 including a surprise attack and an electromagnetic
2 pulse attack by potential adversaries, including Rus-
3 sia, China, North Korea, Iran, or terrorists armed
4 with nuclear weapons) and taking into account var-
5 ious nuclear postures (including day-to-day alert and
6 generated alert).

7 (5) An assessment of the implications of dis-
8 parities between the strategic and non-strategic nu-
9 clear weapons of the United States and the strategic
10 and non-strategic nuclear weapons of other countries
11 with respect to deterrence, extended deterrence, as-
12 surance, and defense.

13 (6) An assessment of the implications that var-
14 ious force levels of the nuclear forces of the United
15 States have on nuclear proliferation, and the effect
16 that such lower force levels have on the motivation
17 or inclination of other countries to increase their nu-
18 clear capabilities, and the contingency plans of the
19 United States to respond to such an increase.

20 (7) An assessment of the effect of the conven-
21 tional prompt global strike capabilities of the United
22 States and other countries on the ability of the
23 United States to meet its deterrence, extended deter-
24 rence, assurance, and defense requirements.

1 (8) An assessment of the effect of the ballistic
2 missile defense capabilities of the United States and
3 other countries on the strategic balance and on the
4 nuclear deterrence, extended deterrence, assurance,
5 and defense strategies of the United States.

6 (9) An assessment of the flexibility and resil-
7 ience of the nuclear forces of the United States, in-
8 cluding the potential to upload nondeployed war-
9 heads and to modify weapons and warheads to meet
10 unexpected challenges.

11 (10) Such other matters as the Secretary of
12 Defense considers appropriate regarding the capa-
13 bilities of the nuclear forces of the United States.

14 (c) PARTICIPATION OF OTHER DEPARTMENTS AND
15 AGENCIES.—In conducting the force analysis and net as-
16 sessment under subsection (a), the Secretary of Defense
17 shall provide for the appropriate participation of the fol-
18 lowing:

19 (1) The Director of National Intelligence.

20 (2) The Joint Staff.

21 (3) The Missile Defense Agency.

22 (4) The United States Strategic Command.

23 (5) Such other elements or components of the
24 Department of Defense as the Secretary of Defense
25 considers appropriate.

1 (6) Such other departments and agencies of the
2 Federal Government as the Secretary of Defense
3 and the heads of such departments and agencies
4 jointly consider appropriate.

5 (7) The national security laboratories (as de-
6 fined in section 3281 of the National Nuclear Secu-
7 rity Administration Act (50 U.S.C. 2471)).

8 (d) REPORT.—

9 (1) REPORT REQUIRED.—Not later than Sep-
10 tember 1, 2012, the Secretary shall submit to the
11 appropriate committees of Congress a report on the
12 force analysis and net assessment.

13 (2) FORM.—The report under paragraph (1)
14 shall be submitted in unclassified form (including as
15 much detail as possible), but may include a classified
16 annex.

17 (e) INDEPENDENT REVIEW.—

18 (1) REVIEW.—The Secretary of Defense shall
19 provide for the review by one or more federally fund-
20 ed research and development centers of the force
21 analysis and net assessment conducted under sub-
22 section (a).

23 (2) PARTICIPANTS.—The review under para-
24 graph (1) shall also include the participation of the
25 following:

1 (A) Such additional individuals as the Sec-
2 retary considers appropriate with expertise in
3 matters relating to—

4 (i) force analysis and net assessment;

5 and

6 (ii) the relationship between the force
7 posture of the United States and the nu-
8 clear deterrence, extended deterrence, as-
9 surance, and defense goals of the United
10 States.

11 (B) A separate individual (who may be a
12 Member of Congress) appointed by each of the
13 following:

14 (i) The Chairman of the Committee
15 on Armed Services of the Senate.

16 (ii) The Ranking Member of the Com-
17 mittee on Armed Services of the Senate.

18 (iii) The Chairman of the Committee
19 on Foreign Relations of the Senate.

20 (iv) The Ranking Member of the
21 Committee on Foreign Relations of the
22 Senate.

23 (v) The Majority Leader of the Sen-
24 ate.

1 (vi) The Minority Leader of the Sen-
2 ate.

3 (vii) The Chairman of the Committee
4 on Armed Services of the House of Rep-
5 resentatives.

6 (viii) The Ranking Member of the
7 Committee on Armed Services of the
8 House of Representatives.

9 (ix) The Chairman of the Committee
10 on Foreign Affairs of the House of Rep-
11 resentatives.

12 (x) The Ranking Member of the Com-
13 mittee on Foreign Affairs of the House of
14 Representatives.

15 (xi) The Speaker of the House of
16 Representatives.

17 (xii) The Minority Leader of the
18 House of Representatives.

19 (3) REPORT.—Not later than 90 days after the
20 date of the submittal to Congress of the report
21 under subsection (d)(1), the federally funded re-
22 search and development center conducting a review
23 under paragraph (1) shall submit to the appropriate
24 committees of Congress a report on the results of
25 the review.

1 (f) APPROPRIATE COMMITTEES OF CONGRESS DE-
2 FINED.—In this section, the term “appropriate commit-
3 tees of Congress” means—

4 (1) the Committee on Armed Services and the
5 Select Committee on Intelligence of the Senate; and

6 (2) the Committee on Armed Services and the
7 Permanent Select Committee on Intelligence of the
8 House of Representatives.

9 **SEC. 7. ANNUAL ASSESSMENT AND REPORT ON THE DELIV-**
10 **ERY PLATFORMS FOR NUCLEAR WEAPONS**
11 **AND THE NUCLEAR COMMAND AND CONTROL**
12 **SYSTEM.**

13 (a) IN GENERAL.—Chapter 24 of title 10, United
14 States Code, as added by section 4, is further amended
15 by adding at the end the following new section:

16 **“§ 493. Annual assessment and report on the delivery**
17 **platforms for nuclear weapons and the**
18 **nuclear command and control system**

19 “(a) ANNUAL ASSESSMENTS.—(1) Each covered offi-
20 cial shall annually assess the safety, security, reliability,
21 sustainability, performance, and military effectiveness of
22 the systems described in paragraph (2) for which such of-
23 ficial has responsibility.

24 “(2) The systems described in this paragraph are the
25 following:

1 “(A) Each type of delivery platform for nuclear
2 weapons.

3 “(B) The nuclear command and control system.

4 “(b) ANNUAL REPORT.—(1) Not later than Decem-
5 ber 1 of each year, beginning in 2011, each covered official
6 shall submit to the Secretary of Defense and the Nuclear
7 Weapons Council established by section 179 of this title
8 a report on the assessments conducted under subsection
9 (a).

10 “(2) Each report under paragraph (1) shall include
11 the following:

12 “(A) The results of the assessment.

13 “(B) An identification and discussion of any ca-
14 pability gaps or shortfalls with respect to the sys-
15 tems described in subsection (a)(2) covered under
16 the assessment.

17 “(C) An identification and discussion of any
18 risks with respect to meeting mission or capability
19 requirements.

20 “(D) In the case of an assessment by the Com-
21 mander of the United States Strategic Command, if
22 the Commander identifies any deficiency with re-
23 spect to a nuclear weapons delivery platform covered
24 under the assessment, a discussion of the relative
25 merits of any other nuclear weapons delivery plat-

1 form type or compensatory measure that would ac-
2 complish the mission of such nuclear weapons deliv-
3 ery platform.

4 “(E) An identification and discussion of any
5 matter having an adverse effect on the capability of
6 the covered official to accurately determine the mat-
7 ters covered by the assessment.

8 “(c) REPORT TO PRESIDENT AND CONGRESS.—(1)
9 Not later than March 1 of each year, beginning in 2012,
10 the Secretary of Defense shall submit to the President a
11 report containing—

12 “(A) each report under subsection (b) sub-
13 mitted during the previous year, as originally sub-
14 mitted to the Secretary;

15 “(B) any comments that the Secretary con-
16 siders appropriate with respect to each such report;

17 “(C) any conclusions that the Secretary con-
18 siders appropriate with respect to the safety, secu-
19 rity, reliability, sustainability, performance, or mili-
20 tary effectiveness of the systems described in sub-
21 section (a)(2); and

22 “(D) any other information that the Secretary
23 considers appropriate.

24 “(2) Not later than March 15 of each year, beginning
25 in 2012, the President shall transmit to the congressional

1 defense committees the report submitted to the President
2 under paragraph (1), including any comments the Presi-
3 dent considers appropriate.

4 “(3) Each report under this subsection may be in
5 classified form if the Secretary of Defense determines it
6 necessary.

7 “(d) COVERED OFFICIAL DEFINED.—In this section,
8 the term ‘covered official’ means—

9 “(1) the Commander of the United States Stra-
10 tegic Command;

11 “(2) the Director of the Strategic Systems Pro-
12 gram of the Navy; and

13 “(3) the Commander of the Global Strike Com-
14 mand of the Air Force.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of such chapter is amended by inserting
17 after the item relating to section 492 the following new
18 item:

“493. Annual assessment and report on the delivery platforms for nuclear weap-
ons and the nuclear command and control system.”.

19 **SEC. 8. MISSILE DEFENSE.**

20 (a) FINDINGS.—Congress finds that the President, in
21 a letter dated December 18, 2010, pledged the following:

22 (1) “The New START Treaty places no limita-
23 tions on the development or deployment of our mis-
24 sile defense programs.”.

1 (2) “Starting in 2011, we will begin deploying
2 the first phase of the [European phased, adaptive
3 approach to missile defense], to protect large parts
4 of southern Europe from short- and medium-range
5 ballistic missile threats. In subsequent phases, we
6 will deploy longer-range and more effective land-
7 based standard missile-3 interceptors in Romania
8 and Poland to protect Europe against medium- and
9 intermediate-range ballistic missiles. In the final
10 phase, planed for the end of the decade, further up-
11 grades of the SM–3 interceptor will provide an as-
12 cent-phase intercept capability to augment our de-
13 fense of NATO European territory, as well as that
14 of the United States, against future threats of
15 ICBMs launched from Iran.”.

16 (3) “Regardless of Russia’s actions in this re-
17 gard, as long as I am President, and as long as the
18 Congress provides the necessary funding, the United
19 States will continue to develop and deploy effective
20 missile defenses to protect the United States, our
21 deployed forces, and our allies and partners. My Ad-
22 ministration plans to deploy all four phases of the
23 [European phased, adaptive approach to missile de-
24 fense].”.

25 (b) POLICY.—It is the policy of the United States—

1 (1) that defenses against ballistic missiles are
2 essential for nuclear deterrence, extended deterrence,
3 assurance, and defense strategies;

4 (2) that any further limitations on the missile
5 defense capabilities of the United States are not in
6 the national security interests of the United States;

7 (3) that policies based on mutual assured de-
8 struction or intentional vulnerability to strategic at-
9 tack can be contrary to the safety and security of
10 both the United States and the Russian Federation,
11 and both countries share a common interest in de-
12 fensive capabilities that help both to move coopera-
13 tively as soon as possible away from a strategic rela-
14 tionship based on mutual vulnerability;

15 (4) that the United States will welcome steps by
16 Russia to also adopt a fundamentally defensive stra-
17 tegic posture that no longer views robust strategic
18 defensive capabilities as undermining the overall
19 strategic balance;

20 (5) to improve the strategic defensive capabili-
21 ties of the United States both quantitatively and
22 qualitatively during the period that the New START
23 treaty is in effect, and such improvements are con-
24 sistent with the Treaty;

1 (6) that no future agreement with Russia on
2 cooperative missile defense, non-strategic nuclear
3 weapons, further strategic weapons reductions, or
4 any other matter shall include any restrictions on
5 the missile defense options of the United States in
6 Europe or elsewhere; and

7 (7) to defend the United States and its allies in
8 the North Atlantic Treaty Organization from all
9 missile threats, including from short-range ballistic
10 missiles.

11 (c) SENSE OF CONGRESS.—It is the sense of Con-
12 gress that, given congressional concern about missile de-
13 fense issues, the President should offer both Houses of
14 Congress regular briefings, not less than twice each year,
15 to the Committees on Foreign Relations and Armed Serv-
16 ices of the Senate, and the Committees on Foreign Affairs
17 and Armed Services of the House, on all missile defense
18 issues related to the New START Treaty and on the
19 progress of United States-Russia dialogue and cooperation
20 regarding missile defense.

21 (d) LIMITATIONS ON MISSILE DEFENSE.—

22 (1) IN GENERAL.—Chapter 24 of title 10,
23 United States Code, as added by section 4, is fur-
24 ther amended by adding at the end the following
25 new section:

1 **“§ 494. Certain limitations on missile defense**

2 “(a) IN GENERAL.—Any agreement with a country
3 or international organization or amendment to the New
4 START Treaty (including an agreement made by the Bi-
5 lateral Consultative Commission established by the New
6 START Treaty) concerning the limitation of the missile
7 defense capabilities of the United States shall not be bind-
8 ing on the United States, and shall not enter into force
9 with respect to the United States, unless after the date
10 of the enactment of this section, such agreement or
11 amendment is—

12 “(1) specifically approved with the advice and
13 consent of the Senate pursuant to Article II, section
14 2, clause 2 of the Constitution; or

15 “(2) specifically authorized by an Act of Con-
16 gress.

17 “(b) ANNUAL NOTIFICATION.—Not later than Janu-
18 ary 31 of each year, beginning in 2012, the President shall
19 submit to the congressional defense committees a notifica-
20 tion of—

21 “(1) whether the Russian Federation has recog-
22 nized during the previous year the sovereign right of
23 the United States to pursue quantitative and quali-
24 tative improvements in missile defense capabilities;
25 and

1 “(2) whether during any treaty negotiations or
2 other Government-to-Government contacts between
3 the United States and the Russian Federation (in-
4 cluding under the auspices of the Bilateral Consult-
5 ative Commission established by the New START
6 Treaty) during the previous year a representative of
7 the Russian Federation suggested that a treaty or
8 other international agreement include, with respect
9 to the United States—

10 “(A) restricting missile defense capabili-
11 ties, military capabilities in space, or conven-
12 tional prompt global strike capabilities; or

13 “(B) reducing the number of non-strategic
14 nuclear weapons deployed in Europe.

15 “(c) NEW START TREATY DEFINED.—In this sec-
16 tion, the term ‘New START Treaty’ means the Treaty be-
17 tween the United States of America and the Russian Fed-
18 eration on Measures for the Further Reduction and Limi-
19 tation of Strategic Offensive Arms, signed on April 8,
20 2010.”.

21 (2) CLERICAL AMENDMENT.—The table of sec-
22 tions at the beginning of such chapter is amended
23 by inserting after the item relating to section 493
24 the following new item:

“494. Certain limitations on missile defense.”.

1 (e) RESTRICTION OF FUNDS FOR CERTAIN TREATY
2 NEGOTIATIONS.—

3 (1) RESTRICTION.—No funds available to the
4 Department of State or any other Federal depart-
5 ment or agency may be obligated or expended during
6 fiscal year 2012 or any fiscal year thereafter for
7 travel expenses related to treaty negotiations con-
8 cerning the possible reduction of covered nuclear
9 systems of the United States until the date on which
10 the certification under paragraph (2) is transmitted
11 to Congress.

12 (2) CERTIFICATION.—Not later than 30 days
13 after the date of the enactment of this Act, the
14 President shall transmit to Congress written notifi-
15 cation that negotiations described in paragraph (1)
16 will not include restricting the missile defense capa-
17 bilities of the United States.

18 **SEC. 9. ANNUAL REPORT ON THE PLAN FOR THE MOD-**
19 **ERNIZATION OF THE NUCLEAR WEAPONS**
20 **STOCKPILE, NUCLEAR WEAPONS COMPLEX,**
21 **AND DELIVERY PLATFORMS.**

22 (a) ANNUAL REPORT.—Chapter 24 of title 10,
23 United States Code, as added by section 4, is further
24 amended by adding at the end the following new section:

1 **“§ 495. Annual report on the plan for the moderniza-**
2 **tion of the nuclear weapons stockpile, nu-**
3 **clear weapons complex, and delivery**
4 **platforms**

5 “(a) REPORT ON THE PLAN FOR THE NUCLEAR
6 WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX,
7 AND DELIVERY PLATFORMS.—(1) Together with the
8 budget of the President submitted to Congress under sec-
9 tion 1105(a) of title 31, United States Code, the Presi-
10 dent, in consultation with the Secretary of Defense and
11 the Secretary of Energy, shall transmit to the congres-
12 sional defense committees, the Committee on Foreign Re-
13 lations of the Senate, and the Committee on Foreign Af-
14 fairs of the House of Representatives a detailed report on
15 the plan to—

16 “(A) enhance the safety, security, and reliability
17 of the nuclear weapons stockpile of the United
18 States;

19 “(B) modernize the nuclear weapons complex;

20 “(C) maintain, modernize, or replace the deliv-
21 ery platforms for nuclear weapons; and

22 “(D) retire, dismantle, or eliminate any covered
23 nuclear system.

24 “(2) Each report required under paragraph (1) shall
25 include the following:

1 “(A) A detailed description of the plan to en-
2 hance the safety, security, and reliability of the nu-
3 clear weapons stockpile of the United States.

4 “(B) A detailed description of the plan to mod-
5 ernize the nuclear weapons complex, including im-
6 proving the safety of facilities, modernizing the in-
7 frastructure, and maintaining the key capabilities
8 and competencies of the nuclear weapons workforce,
9 including designers and technicians.

10 “(C) A detailed description of the plan to main-
11 tain, modernize, and replace delivery platforms for
12 nuclear weapons.

13 “(D) A detailed estimate of budget require-
14 ments, including the costs associated with the plans
15 outlined under subparagraphs (A) through (C), over
16 the 10-year period following the date of the report.

17 “(E) A detailed description of the steps taken
18 to implement the plan submitted in the previous
19 year.

20 “(b) ADVICE OF DIRECTORS OF NUCLEAR FACILI-
21 TIES AND LABORATORIES.—Together with the budget of
22 the President submitted to Congress under section
23 1105(a) of title 31, United States Code, during each fiscal
24 year in which a report is transmitted under subsection (a),
25 the directors of the nuclear facilities and laboratories shall

1 each submit to the congressional defense committees, the
2 Committee on Foreign Relations of the Senate, the Com-
3 mittee on Foreign Affairs of the House of Representatives,
4 the Secretary of Defense, and the Secretary of Energy an
5 independent report on the implementation of and the
6 funding for the plans outlined under subparagraphs (A)
7 and (B) of subsection (a)(2).

8 “(c) FORM.—The reports required by this section
9 shall be submitted in unclassified form (including as much
10 detail as possible), but may include a classified annex.

11 “(d) DEFINITIONS.—In this section:

12 “(1) The term ‘covered nuclear systems’ means
13 the following:

14 “(A) B–52H or B2 bomber aircraft and
15 nuclear air-launched cruise missiles.

16 “(B) Trident ballistic missile submarines,
17 launch tubes, and Trident D–5 submarine-
18 launched ballistic missiles.

19 “(C) Minuteman III intercontinental bal-
20 listic missiles and associated silos.

21 “(D) Nuclear warheads or gravity bombs
22 that can be delivered by the systems specified
23 in subparagraph (A), (B), or (C).

1 “(E) Nuclear weapons delivered by means
2 other than the systems specified in subpara-
3 graph (A), (B), or (C).

4 “(2) The term ‘nuclear facilities and labora-
5 tories’ means the following:

6 “(A) Los Alamos National Laboratory, Los
7 Alamos, New Mexico.

8 “(B) Sandia National Laboratories, Albu-
9 querque, New Mexico.

10 “(C) Lawrence Livermore National Lab-
11 oratory, Livermore, California.

12 “(D) The Kansas City Plant, Kansas City,
13 Missouri.

14 “(E) The Nevada National Security Site,
15 Nevada.

16 “(F) The Pantex Plant, Amarillo, Texas.

17 “(G) The Savannah River Site, Aiken,
18 South Carolina.

19 “(H) The Y-12 Plant, Oak Ridge, Ten-
20 nessee.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of such chapter is amended by inserting
23 after the item relating to section 494 the following new
24 item:

 “495. Annual report on the plan for the modernization of the nuclear weapons
 stockpile, nuclear weapons complex, and delivery platforms.”.

1 **SEC. 10. CHEMISTRY AND METALLURGY RESEARCH RE-**
2 **PLACEMENT NUCLEAR FACILITY AND URA-**
3 **NIUM PROCESSING FACILITY.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) The Stockpile Stewardship Management
6 Plan for Fiscal Year 2011, dated May 2010, said
7 that the Chemistry and Metallurgy Research Re-
8 placement building and the Uranium Processing Fa-
9 cility are “the highest physical infrastructure prior-
10 ities” for the nuclear enterprise.

11 (2) The November 2010 update to the report
12 required under section 1251 of the National Defense
13 Authorization Act for Fiscal Year 2010 (Public Law
14 111–84; 123 Stat. 2549) said that, “The Adminis-
15 tration is committed to fully fund the construction
16 of the Uranium Processing Facility (UPF) and the
17 Chemistry and Metallurgy Research Replacement
18 (CMRR).”.

19 (3) A Department of Energy briefing book re-
20 garding the fiscal year 2012 budget stated that, with
21 respect to the Chemistry and Metallurgy Research
22 Replacement nuclear facility, “The increased fund-
23 ing level in the FY 2012–FY 2016 period is needed
24 to support the required schedule of construction
25 completion in FY 2020 and a ramp-up to full oper-
26 ations by FY 2023.”.

1 (4) The briefing book also stated that, with re-
2 spect to the Uranium Processing Facility, “The in-
3 creased funding level in the FY 2012–FY 2016 pe-
4 riod is needed to support the NNSA’s priority to
5 phase out operations in Building 9212 and move re-
6 quired chemical processing activities from Building
7 9212 into UPF in FY 2020, with a ramp-up to full
8 operations in UPF by FY 2024.”.

9 (b) CMRR AND UPF.—Of amounts authorized to be
10 appropriated for weapons activities of the National Nu-
11 clear Security Administration, the Secretary of Energy
12 shall—

13 (1) accelerate, to the extent possible, the design
14 and engineering phase of the Chemistry and Metal-
15 lurgy Research Replacement nuclear facility (in this
16 section referred to as the “nuclear facility”) and the
17 Uranium Processing Facility (in this section referred
18 to as the “processing facility”) in order for—

19 (A) the construction of both facilities to be
20 completed by not later than 2020;

21 (B) both the nuclear facility and the proc-
22 essing facility to begin nuclear operations by
23 not later than 2020; and

1 (C) both the nuclear facility and the proc-
2 essing facility to be fully operational by not
3 later than 2023 and 2024, respectively; and

4 (2) together with the budget of the President
5 submitted to Congress under section 1105(a) of title
6 31, United States Code, for fiscal years 2013
7 through 2024, submit to the congressional defense
8 committees a report including—

9 (A) certification of the acceleration de-
10 scribed in paragraph (1); and

11 (B) identification of the funding amounts
12 necessary, including on a multiyear basis as ap-
13 propriate, for the nuclear facility and the proc-
14 essing facility upon completion of the design
15 and engineering phase of such facilities.

16 **SEC. 11. POLICY ON NON-NUCLEAR WEAPONS SYSTEMS.**

17 It is the policy of the United States that convention-
18 ally armed, strategic-range weapons systems not co-lo-
19 cated with nuclear armed systems do not affect strategic
20 stability between the United States and the Russian Fed-
21 eration.

22 **SEC. 12. NON-STRATEGIC NUCLEAR WEAPON REDUCTIONS**
23 **AND EXTENDED DETERRENCE POLICY.**

24 (a) **POLICY ON NON-STRATEGIC NUCLEAR WEAP-**
25 **ONS.**—It is the policy of the United States—

1 (1) to pursue negotiations with the Russian
2 Federation aimed at the reduction of Russian de-
3 ployed and non-deployed non-strategic nuclear
4 forces;

5 (2) that non-strategic nuclear weapons should
6 be considered when weighing the balance of the nu-
7 clear forces of the United States and Russia; and

8 (3) that any geographical relocation or storage
9 of non-strategic nuclear weapons by Russia does not
10 constitute a reduction or elimination of such weap-
11 ons.

12 (b) POLICY ON EXTENDED DETERRENCE COMMIT-
13 MENT TO EUROPE.—It is the policy of the United States
14 that—

15 (1) it maintain its commitment to extended de-
16 terrence, specifically the nuclear alliance of the
17 North Atlantic Treaty Organization, as an impor-
18 tant component of ensuring and linking the national
19 security interests of the United States and the secu-
20 rity of its European allies;

21 (2) forward-deployed nuclear forces of the
22 United States shall remain based in Europe in sup-
23 port of the nuclear policy and posture of NATO; and

24 (3) the presence of nuclear weapons of the
25 United States in Europe—combined with NATO’s

1 unique nuclear sharing arrangements under which
2 non-nuclear members participate in nuclear planning
3 and possess specially configured aircraft capable of
4 delivering nuclear weapons—contributes to the cohe-
5 sion of NATO and provides reassurance to allies and
6 partners who feel exposed to regional threats.

7 (c) LIMITATION ON REDUCTION, CONSOLIDATION, OR
8 WITHDRAWAL OF NUCLEAR FORCES BASED IN EU-
9 ROPE.—In light of the policy expressed in subsections (a)
10 and (b), no action may be taken to effect or implement
11 the reduction, consolidation, or withdrawal of nuclear
12 forces of the United States that are based in Europe un-
13 less—

14 (1) the reduction, consolidation, or withdrawal
15 of such nuclear forces is requested by the govern-
16 ment of the host nation in the manner provided in
17 the agreement between the United States and the
18 host nation regarding the forces; or

19 (2) the President certifies that—

20 (A) NATO member states have considered
21 the reduction, consolidation, or withdrawal in
22 the High Level Group and NATO has decided
23 to support such reduction, consolidation, or
24 withdrawal; and

1 (B) each NATO member state has sepa-
2 rately concurred that the remaining nuclear
3 forces of the United States that are based in
4 Europe after such reduction, consolidation, or
5 withdrawal would provide a commensurate or
6 better level of assurance and credibility as be-
7 fore such reduction, consolidation, or with-
8 drawal.

9 (d) NOTIFICATION.—Upon any decision to reduce,
10 consolidate, or withdraw the nuclear forces of the United
11 States that are based in Europe, the President shall sub-
12 mit to the Committees on Armed Services of the Senate
13 and House of Representatives a notification containing—

14 (1) the certification required by subsection
15 (c)(2);

16 (2) justification for such reduction, consolida-
17 tion, or withdrawal; and

18 (3) an assessment of how NATO member
19 states, in light of such reduction, consolidation, or
20 withdrawal, assess the credibility of the deterrence
21 capability of the United States in support of its com-
22 mitments undertaken pursuant to article 5 of the
23 North Atlantic Treaty, signed at Washington, Dis-
24 trict of Columbia, on April 4, 1949, and entered into

1 force on August 24, 1949 (63 Stat. 2241; TIAS
2 1964).

3 (e) NOTICE AND WAIT REQUIREMENT.—The Presi-
4 dent may not commence a reduction, consolidation, or
5 withdrawal of the nuclear forces of the United States that
6 are based in Europe for which the certification required
7 by subsection (c)(2) is made until the expiration of a 180-
8 day period beginning on the date on which the President
9 submits the report under subsection (d) containing the
10 certification.

○