

112TH CONGRESS  
2D SESSION

# H. R. 4178

To strengthen the strategic force posture of the United States by ensuring the safety, security, reliability, and credibility of the nuclear weapons stockpile.

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2012

Mr. TURNER of Ohio (for himself, Mr. BROOKS, Mr. LAMBORN, Mr. FRANKS of Arizona, Mr. FORBES, Mr. FLEMING, Mr. REHBERG, and Mr. MILLER of Florida) 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 ensuring the safety, security, reliability, and credibility of the nuclear weapons stockpile.

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 “Maintaining the President’s Commitment to Our Nuclear  
6 Deterrent and National Security Act of 2012”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Commitments for nuclear weapons stockpile modernization.
- Sec. 4. Limitation and report in the event of insufficient funding for modernization of nuclear weapons stockpile.
- Sec. 5. Progress of modernization.
- Sec. 6. Limitation on strategic delivery system reductions.
- Sec. 7. Prevention of asymmetry of nuclear weapon stockpile reductions.
- Sec. 8. Consideration of expansion of nuclear forces of other countries.
- Sec. 9. Chemistry and Metallurgy Research Replacement Nuclear Facility and Uranium Processing Facility.
- Sec. 10. Nuclear warheads on intercontinental ballistic missiles of the United States.
- Sec. 11. Nonstrategic nuclear weapon reductions and extended deterrence policy.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) The term “congressional defense committees” has the meaning given that term in section  
 6 101(a)(16) of title 10, United States Code.

8 (2) The term “New START Treaty” means the  
 9 Treaty between the United States of America and  
 10 the Russian Federation on Measures for the Further  
 11 Reduction and Limitation of Strategic Offensive  
 12 Arms, signed on April 8, 2010, and entered into  
 13 force on February 5, 2011.

14 **SEC. 3. COMMITMENTS FOR NUCLEAR WEAPONS STOCK-**  
 15 **PILE MODERNIZATION.**

16 Congress finds the following:

17 (1) In 2008, then Secretary of Defense Robert  
 18 Gates warned that “to be blunt, there is absolutely

1 no way we can maintain a credible deterrent and re-  
2 duce the number of weapons in our stockpile without  
3 either resorting to testing our stockpile or pursuing  
4 a modernization program.”.

5 (2) Secretary Gates also warned in September  
6 2009 that modernization is a prerequisite to nuclear  
7 force reductions, stating that modernizing the nu-  
8 clear capability of the United States is an “enabler  
9 of arms control and our ability to reduce the size of  
10 our nuclear stockpile. When we have more con-  
11 fidence in the long-term viability of our weapons sys-  
12 tems, then our ability to reduce the number of weap-  
13 ons we must keep in the stockpile is enhanced.”.

14 (3) President Obama’s 2010 Nuclear Posture  
15 Review stated that—

16 (A) “In order to sustain a safe, secure,  
17 and effective U.S. nuclear stockpile as long as  
18 nuclear weapons exist, the United States must  
19 possess a modern physical infrastructure—com-  
20 prised of the national security laboratories and  
21 a complex of supporting facilities.”; and

22 (B) “[I]mplementation of the Stockpile  
23 Stewardship Program and the nuclear infra-  
24 structure investments recommended in the NPR  
25 will allow the United States to shift away from

1 retaining large numbers of non-deployed war-  
2 heads as a hedge against technical or geo-  
3 political surprise, allowing major reductions in  
4 the nuclear stockpile. These investments are es-  
5 sential to facilitating reductions while sus-  
6 taining deterrence under New START and be-  
7 yond.”.

8 (4) Section 1251 of the National Defense Au-  
9 thorization Act for Fiscal Year 2010 (Public Law  
10 111–84; 123 Stat. 2549) required the President to  
11 submit a report to Congress on the plan for the nu-  
12 clear weapons stockpile, nuclear weapons complex,  
13 and delivery platforms at the time a follow-on treaty  
14 to the Strategic Arms Reduction Treaty was sub-  
15 mitted by the President to the Senate. The Presi-  
16 dent submitted such report in May 2010 and sub-  
17 mitted updates in November 2010 and February  
18 2011.

19 (5) Such section 1251 also contained a sense of  
20 Congress that “the enhanced safety, security, and  
21 reliability of the nuclear weapons stockpile, mod-  
22 ernization of the nuclear weapons complex, and  
23 maintenance of nuclear delivery systems are key to  
24 enabling further reductions in the nuclear forces of  
25 the United States.”.

1           (6) Forty-one Senators wrote to President  
2           Obama on December 15, 2009, stating, “we don’t  
3           believe further reductions can be in the national se-  
4           curity interest of the U.S. in the absence of a sig-  
5           nificant program to modernize our nuclear deter-  
6           rent.”.

7           (7) Former Secretary of Defense and Secretary  
8           of Energy James Schlesinger stated, while testifying  
9           before the Committee on Foreign Relations of the  
10          Senate in April 2010, “I believe that it is immensely  
11          important for the Senate to ensure, what the Admin-  
12          istration has stated as its intent, i.e., that there be  
13          a robust plan with a continuation of its support over  
14          the full 10 years, before it proceeds to ratify this  
15          START follow-on treaty.”.

16          (8) Former Secretary of State James Baker  
17          stated in testimony before the Committee on Foreign  
18          Relations of the Senate in May 2010 that “because  
19          our security is based upon the safety and reliability  
20          of our nuclear weapons, it is important that our  
21          Government budget enough money to guarantee that  
22          those weapons can carry out their mission.”.

23          (9) Former Secretary of State Henry Kissinger  
24          also stated in May 2010 while testifying before the  
25          Committee on Foreign Relations of the Senate that

1 “as part of a number of recommendations, my col-  
2 leagues, Bill Perry, George Shultz, Sam Nunn, and  
3 I have called for significant investments in a re-  
4 paired and modernized nuclear weapons infrastruc-  
5 ture and added resources for the three national lab-  
6 oratories.”.

7 (10) Then Secretary of Defense Robert Gates,  
8 while testifying before the Committee on Armed  
9 Services of the Senate in June 2010, stated, “I see  
10 this treaty as a vehicle to finally be able to get what  
11 we need in the way of modernization that we have  
12 been unable to get otherwise. . . . We are essentially  
13 the only nuclear power in the world that is not car-  
14 rying out these kinds of modernization programs.”.

15 (11) Secretary Gates further stated that “I’ve  
16 been up here for the last four springs trying to get  
17 money for this and this is the first time I think I’ve  
18 got a fair shot of actually getting money for our nu-  
19 clear arsenal.”.

20 (12) The Directors of the national nuclear  
21 weapons laboratories wrote to the chairman and  
22 ranking member of the Committee on Foreign Rela-  
23 tions of the Senate in December 2010 that “We are  
24 very pleased by the update to the Section 1251 Re-  
25 port, as it would enable the laboratories to execute

1 our requirements for ensuring a safe, secure, reliable  
2 and effective stockpile under the Stockpile Steward-  
3 ship and Management Plan. In particular, we are  
4 pleased because it clearly responds to many of the  
5 concerns that we and others have voiced in the past  
6 about potential future-year funding shortfalls, and it  
7 substantially reduces risks to the overall program. In  
8 summary, we believe that the proposed budgets pro-  
9 vide adequate support to sustain the safety, security,  
10 reliability and effectiveness of America’s nuclear de-  
11 terrent within the limit of 1,550 deployed strategic  
12 warheads established by the New START Treaty  
13 with adequate confidence and acceptable risk.”.

14 (13) President Obama pledged, in a December  
15 2010 letter to several Senators, “I recognize that  
16 nuclear modernization requires investment for the  
17 long-term. . . . That is my commitment to the Con-  
18 gress—that my Administration will pursue these  
19 programs and capabilities for as long as I am Presi-  
20 dent.”.

21 (14) Secretary Gates added in May 2011 that,  
22 “this modernization program was very carefully  
23 worked out between ourselves and the Department  
24 of Energy; and, frankly, where we came out on that

1 played a fairly significant role in the willingness of  
2 the Senate to ratify the New START agreement.”.

3 (15) The Administrator for Nuclear Security,  
4 Thomas D’Agostino, testified before Congress in No-  
5 vember 2011 that, “it is critical to accept the link-  
6 age between modernizing our current stockpile in  
7 order to achieve the policy objective of decreasing  
8 the number of weapons we have in our stockpile,  
9 while still ensuring that the deterrent is safe, secure,  
10 and effective.”.

11 **SEC. 4. LIMITATION AND REPORT IN THE EVENT OF INSUF-**  
12 **FICIENT FUNDING FOR MODERNIZATION OF**  
13 **NUCLEAR WEAPONS STOCKPILE.**

14 (a) SENSE OF CONGRESS.—It is the sense of Con-  
15 gress that—

16 (1) consistent with Condition 9 of the Resolu-  
17 tion of Advice and Consent to Ratification of the  
18 New START Treaty of the Senate, agreed to on De-  
19 cember 22, 2011, the United States is committed to  
20 ensuring the safety, security, reliability, and credi-  
21 bility of its nuclear forces; and

22 (2) the United States is committed to—

23 (A) proceeding with a robust stockpile  
24 stewardship program and maintaining and mod-  
25 ernizing nuclear weapons production capabilities

1 and capacities of the United States to ensure  
2 the safety, security, reliability, and credibility of  
3 the nuclear arsenal of the United States at the  
4 New START Treaty levels and meeting require-  
5 ments for hedging against possible international  
6 developments or technical problems;

7 (B) reinvigorating and sustaining the nu-  
8 clear security laboratories of the United States  
9 and preserving the core nuclear weapons com-  
10 petencies therein; and

11 (C) providing the resources needed to  
12 achieve these objectives, at a minimum at the  
13 levels set forth in the President’s 10-year plan  
14 provided to Congress in November 2010 pursu-  
15 ant to section 1251 of the National Defense  
16 Authorization Act for Fiscal Year 2010 (Public  
17 Law 111–84; 123 Stat. 2549).

18 (b) INSUFFICIENT FUNDING REPORT AND LIMITA-  
19 TION.—

20 (1) IN GENERAL.—Paragraph (2) of section  
21 1045(a) of the National Defense Authorization Act  
22 for Fiscal Year 2012 (50 U.S.C. 2523b) is amended  
23 to read as follows:

24 “(2) INSUFFICIENT FUNDING.—

1           “(A) REPORT.—During each year in which  
2 the New START Treaty is in force, if the  
3 President determines that an appropriations  
4 Act is enacted that fails to meet the resource  
5 levels set forth in the November 2010 update to  
6 the plan referred to in section 1251 of the Na-  
7 tional Defense Authorization Act for Fiscal  
8 Year 2010 (Public Law 111–84; 123 Stat.  
9 2549) or if at any time determines that more  
10 resources are required to carry out such plan  
11 than were estimated, the President shall submit  
12 to the appropriate congressional committees,  
13 within 60 days of making such a determination,  
14 a report detailing—

15                   “(i) a plan to remedy the resource  
16                   shortfall;

17                   “(ii) if more resources are required to  
18                   carry out the plan than were estimated—

19                           “(I) the proposed level of funding  
20                           required; and

21                           “(II) an identification of the  
22                           stockpile work, campaign, facility,  
23                           site, asset, program, operation, activ-  
24                           ity, construction, or project for which  
25                           additional funds are required;

1           “(iii) any effects caused by the short-  
2 fall on the safety, security, reliability, or  
3 credibility of the nuclear forces of the  
4 United States; and

5           “(iv) whether and why, in light of the  
6 shortfall, remaining a party to the New  
7 START Treaty is in the national interest  
8 of the United States.

9           “(B) LIMITATION.—If the President sub-  
10 mits a report under subparagraph (A), none of  
11 the funds made available for fiscal year 2012 or  
12 any fiscal year thereafter for the Department of  
13 Defense or the National Nuclear Security Ad-  
14 ministration may be used to reduce the number  
15 of deployed nuclear warheads until—

16           “(i) after the date on which such re-  
17 port is submitted, the President certifies in  
18 writing to the appropriate congressional  
19 committees that the resource shortfall  
20 identified in such report has been ad-  
21 dressed; and

22           “(ii) a period of 120 days has elapsed  
23 following the date on which such certifi-  
24 cation is made.

1           “(C) EXCEPTION.—The limitation in sub-  
2 paragraph (B) shall not apply to—

3           “(i) reductions made to ensure the  
4 safety, security, reliability, and credibility  
5 of the nuclear weapons stockpile and stra-  
6 tegic delivery systems, including activities  
7 related to surveillance, assessment, certifi-  
8 cation, testing, and maintenance of nuclear  
9 warheads and strategic delivery systems; or

10           “(ii) nuclear warheads that are retired  
11 or awaiting dismantlement on the date of  
12 the report under subparagraph (A).

13           “(D) DEFINITIONS.—In this paragraph:

14           “(i) The term ‘appropriate congress-  
15 sional committees’ means—

16           “(I) the congressional defense  
17 committees; and

18           “(II) the Committee on Foreign  
19 Relations of the Senate and the Com-  
20 mittee on Foreign Affairs of the  
21 House of Representatives.

22           “(ii) The term ‘New START Treaty’  
23 means the Treaty between the United  
24 States of America and the Russian Federa-  
25 tion on Measures for the Further Reduc-

1                   tion and Limitation of Strategic Offensive  
2                   Arms, signed on April 8, 2010, and en-  
3                   tered into force on February 5, 2011.”.

4                   (2) EFFECTIVE DATE.—The amendment made  
5                   by paragraph (1) shall take effect on October 1,  
6                   2012.

7 **SEC. 5. PROGRESS OF MODERNIZATION.**

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

9                   (1) In 2008, then Secretary of Defense Robert  
10                  Gates warned that “to be blunt, there is absolutely  
11                  no way we can maintain a credible deterrent and re-  
12                  duce the number of weapons in our stockpile without  
13                  either resorting to testing our stockpile or pursuing  
14                  a modernization program.”.

15                  (2) The 2010 Nuclear Posture Review stated  
16                  that “the President has directed a review of post-  
17                  New START arms control objectives, to consider fu-  
18                  ture reductions in nuclear weapons. Several factors  
19                  will influence the magnitude and pace of future re-  
20                  ductions in U.S. nuclear forces below New START  
21                  levels”, including—

22                  (A) “First, any future nuclear reductions  
23                  must continue to strengthen deterrence of po-  
24                  tential regional adversaries, strategic stability  
25                  vis-à-vis Russia and China, and assurance of

1 our allies and partners. This will require an up-  
2 dated assessment of deterrence requirements;  
3 further improvements in U.S., allied, and part-  
4 ner non-nuclear capabilities; focused reductions  
5 in strategic and non-strategic weapons; and  
6 close consultations with allies and partners. The  
7 United States will continue to ensure that, in  
8 the calculations of any potential opponent, the  
9 perceived gains of attacking the United States  
10 or its allies and partners would be far out-  
11 weighed by the unacceptable costs of the re-  
12 sponse.”;

13 (B) “Second, implementation of the Stock-  
14 pile Stewardship Program and the nuclear in-  
15 frastructure investments recommended in the  
16 NPR will allow the United States to shift away  
17 from retaining large numbers of non-deployed  
18 warheads as a hedge against technical or geo-  
19 political surprise, allowing major reductions in  
20 the nuclear stockpile. These investments are es-  
21 sential to facilitating reductions while sus-  
22 taining deterrence under New START and be-  
23 yond.”; and

24 (C) “Third, Russia’s nuclear force will re-  
25 main a significant factor in determining how

1 much and how fast we are prepared to reduce  
2 U.S. forces. Because of our improved relations,  
3 the need for strict numerical parity between the  
4 two countries is no longer as compelling as it  
5 was during the Cold War. But large disparities  
6 in nuclear capabilities could raise concerns on  
7 both sides and among U.S. allies and partners,  
8 and may not be conducive to maintaining a sta-  
9 ble, long-term strategic relationship, especially  
10 as nuclear forces are significantly reduced.  
11 Therefore, we will place importance on Russia  
12 joining us as we move to lower levels.”.

13 (3) The 2010 Nuclear Posture Review also stat-  
14 ed that the Administration would “conduct follow-on  
15 analysis to set goals for future nuclear reductions  
16 below the levels expected in New START, while  
17 strengthening deterrence of potential regional adver-  
18 saries, strategic stability vis-à-vis Russia and China,  
19 and assurance of our allies and partners.”.

20 (4) The Secretary of Defense has warned in  
21 testimony before the Committee on Armed Services  
22 of the House of Representatives regarding the se-  
23 questration mechanism under section 251A of the  
24 Balanced Budget and Emergency Deficit Control  
25 Act of 1985 that “if this sequester goes into effect

1 and it doubles the number of cuts, then it'll truly  
2 devastate our national defense, because it will then  
3 require that we have to go at our force structure.  
4 We will have to hollow it out . . . [i]t will badly  
5 damage our capabilities for the future. . . . And if  
6 you have a smaller force, you're not going to be able  
7 to be out there responding in as many areas as we  
8 do now.”.

9 (5) The 2010 Nuclear Posture Review also stat-  
10 ed that “by modernizing our aging nuclear facilities  
11 and investing in human capital, we can substantially  
12 reduce the number of nuclear weapons we retain as  
13 a hedge.”.

14 (6) The President requested the promised  
15 \$7,600,000,000 for weapons activities of the Na-  
16 tional Nuclear Security Administration in fiscal year  
17 2012 but signed an appropriations Act for fiscal  
18 year 2012 that provided only \$7,233,997,000, a sub-  
19 stantial reduction to only the second year of the ten-  
20 year plan under section 1251 of the National De-  
21 fense Authorization Act for Fiscal Year 2010 (Pub-  
22 lic Law 111–84; 123 Stat. 2549).

23 (7) The President requested only  
24 \$7,577,341,000 for weapons activities of the Na-  
25 tional Nuclear Security Administration in fiscal year

1 2013 while the President’s section 1251 plan prom-  
2 ised \$7,900,000,000.

3 (8) The President’s section 1251 plan further  
4 promised to request \$8,400,000,000 in fiscal year  
5 2014, \$8,700,000,000 in fiscal year 2015,  
6 \$8,900,000,000 in fiscal year 2016, at least  
7 \$8,900,000,000 in fiscal year 2017, at least  
8 \$9,200,000,000 in fiscal year 2018, at least  
9 \$9,400,000,000 in fiscal year 2019, at least  
10 \$9,400,000,000 in fiscal year 2020, and at least  
11 \$9,500,000,000 in fiscal year 2021.

12 (9) While the administration has not yet shared  
13 with Congress the terms of reference of the so-called  
14 Nuclear Posture Review Implementation Study, or  
15 the Department of Defense’s instructions for that  
16 review, the only publicly available statements by the  
17 administration, including language from the Nuclear  
18 Posture Review, suggest the review was specifically  
19 instructed by the President and his senior political  
20 appointees to only consider reductions to the nuclear  
21 forces of the United States.

22 (10) When asked at a hearing if the New  
23 START Treaty allowed the United States “to main-  
24 tain a nuclear arsenal that is more than is needed  
25 to guarantee an adequate deterrent,” then Com-

1        mander of the United States Strategic Command,  
2        General Kevin P. Chilton said, “I do not agree that  
3        it is more than is needed. I think the arsenal that  
4        we have is exactly what is needed today to provide  
5        the deterrent.”.

6        (b) NUCLEAR EMPLOYMENT STRATEGY.—Section  
7        491 of title 10, United States Code, is amended—

8                (1) by striking “On the date” and inserting  
9        “(a) REPORT.—On the date”;

10                (2) by inserting after subsection (a) the fol-  
11        lowing new subsection (b):

12        “(b) LIMITATION.—With respect to a new nuclear  
13        employment strategy described in a report submitted to  
14        Congress under subsection (a), none of the funds made  
15        available for fiscal year 2012 or any fiscal year thereafter  
16        for the Department of Defense may be used to implement  
17        such strategy until a period of one year has elapsed fol-  
18        lowing the date on which such report is submitted to Con-  
19        gress.”; and

20                (3) in the heading, by striking “**reports on**”.

21        (c) LIMITATION.—During each of fiscal years 2012  
22        through 2021, none of the funds made available for each  
23        such fiscal year for the Department of Defense may be  
24        used to carry out the results of the decisions made pursu-  
25        ant to the 2010 Nuclear Posture Review Implementation

1 Study until the date on which the President certifies to  
2 the congressional defense committees that—

3           (1) the President has included the resources  
4           necessary to carry out the February 2011 update to  
5           the report required under section 1251 of the Na-  
6           tional Defense Authorization Act for Fiscal Year  
7           2010 (Public Law 111–84; 123 Stat. 2549) in the  
8           budget of the President submitted to Congress  
9           under section 1105(a) of title 31, United States  
10          Code, for such fiscal year;

11          (2) the resources described in paragraph (1)  
12          have been provided to the President in an appropria-  
13          tions Act; and

14          (3) the sequestration mechanism under section  
15          251A of the Balanced Budget and Emergency Def-  
16          icit Control Act of 1985 has been repealed or the se-  
17          questration mechanism under such section for the  
18          security category has otherwise been terminated.

19 **SEC. 6. LIMITATION ON STRATEGIC DELIVERY SYSTEM RE-**  
20 **DUCTIONS.**

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

22           (1) The Nuclear Posture Review of 2010 said,  
23           with respect to modernizing the triad, “for planned  
24           reductions under New START, the United States  
25           should retain a smaller Triad of SLBMs, ICBMs,

1 and heavy bombers. Retaining all three Triad legs  
2 will best maintain strategic stability at reasonable  
3 cost, while hedging against potential technical prob-  
4 lems or vulnerabilities.”.

5 (2) The Senate stated in Declaration 13 of the  
6 Resolution of Advice and Consent to Ratification of  
7 the New START Treaty that “In accordance with  
8 paragraph 1 of Article V of the New START Trea-  
9 ty, which states that, ‘Subject to the provisions of  
10 this Treaty, modernization and replacement of stra-  
11 tegic offensive arms may be carried out,’ it is the  
12 sense of the Senate that United States deterrence  
13 and flexibility is assured by a robust triad of stra-  
14 tegic delivery vehicles. To this end, the United  
15 States is committed to accomplishing the moderniza-  
16 tion and replacement of its strategic nuclear delivery  
17 vehicles, and to ensuring the continued flexibility of  
18 United States conventional and nuclear delivery sys-  
19 tems.”.

20 (3) The Senate required the President, prior to  
21 the entry into force of the New START Treaty, to  
22 certify to the Senate that the President intended to  
23 modernize or replace the triad of strategic nuclear  
24 delivery systems.

1           (4) The President made this certification in a  
2           message to the Senate on February 2, 2011, in  
3           which the President stated, “I intend to (a) mod-  
4           ernize or replace the triad of strategic nuclear deliv-  
5           ery systems: a heavy bomber and air-launched cruise  
6           missile, an ICBM, and a nuclear-powered ballistic  
7           missile submarine (SSBN) and SLBM; and (b)  
8           maintain the United States rocket motor industrial  
9           base.”.

10          (b) LIMITATION.—

11           (1) IN GENERAL.—Part I of subtitle A of title  
12          10, United States Code, is amended by adding at  
13          the end the following new chapter:

14          **“CHAPTER 24—NUCLEAR POSTURE**

“Sec.

“491. Strategic delivery system reductions.

15          **“§ 491. Strategic delivery system reductions**

16          “(a) ANNUAL CERTIFICATION.—Beginning fiscal  
17          year 2013, the President shall annually certify in writing  
18          to the congressional defense committees whether plans to  
19          modernize or replace strategic delivery systems are fully  
20          resourced and being executed at a level equal to or more  
21          than the levels set forth in the November 2010 update  
22          to the plan referred to in section 1251 of the National  
23          Defense Authorization Act for Fiscal Year 2010 (Public

1 Law 111–84; 123 Stat. 2549), including plans regard-  
2 ing—

3 “(1) a heavy bomber and air-launched cruise  
4 missile;

5 “(2) an intercontinental ballistic missile;

6 “(3) a submarine-launched ballistic missile;

7 “(4) a ballistic missile submarine; and

8 “(5) maintaining—

9 “(A) the nuclear command and control sys-  
10 tem; and

11 “(B) the rocket motor industrial base of  
12 the United States.

13 “(b) LIMITATION.—If the President certifies under  
14 subsection (a) that plans to modernize or replace strategic  
15 delivery systems are not fully resourced or being executed,  
16 none of the funds made available for fiscal year 2012 or  
17 any fiscal year thereafter for the Department of Defense  
18 may be used to reduce, convert, or eliminate strategic de-  
19 livery systems, whether deployed or nondeployed, pursuant  
20 to the New START Treaty or otherwise until a period of  
21 120 days has elapsed following the date on which such  
22 certification is made.

23 “(c) EXCEPTION.—The limitation in subsection (b)  
24 shall not apply to—

1           “(1) reductions made to ensure the safety, secu-  
 2           rity, reliability, and credibility of the nuclear weap-  
 3           ons stockpile and strategic delivery systems, includ-  
 4           ing activities related to surveillance, assessment, cer-  
 5           tification, testing, and maintenance of nuclear war-  
 6           heads and delivery systems; or

7           “(2) strategic delivery systems that are retired  
 8           or awaiting dismantlement on the date of the certifi-  
 9           cation under subsection (a).

10          “(d) DEFINITIONS.—In this section:

11           “(1) The term ‘New START Treaty’ means the  
 12           Treaty between the United States of America and  
 13           the Russian Federation on Measures for the Further  
 14           Reduction and Limitation of Strategic Offensive  
 15           Arms, signed on April 8, 2010, and entered into  
 16           force on February 5, 2011.

17           “(2) The term ‘strategic delivery system’ means  
 18           a delivery platform for nuclear weapons.”.

19          (2) CLERICAL AMENDMENTS.—

20           (A) TABLE OF CHAPTERS.—The table of  
 21           chapters at the beginning of subtitle A of title  
 22           10, United States Code, and at the beginning  
 23           of part I of such subtitle, are each amended by  
 24           inserting after the item relating to chapter 23  
 25           the following new item:

“24. Nuclear posture ..... 491”.

1 (B) CHAPTER 23.—Chapter 23 of title 10,  
2 United States Code, is amended as follows:

3 (i) Section 490a is transferred to  
4 chapter 24, inserted after section 491, and  
5 redesignated as section 492.

6 (ii) Section 491, as amended by sec-  
7 tion 5(b), is transferred to chapter 24, in-  
8 serted after section 492, and redesignated  
9 as section 493.

10 (iii) The table of sections at the begin-  
11 ning of such chapter is amended by strik-  
12 ing the items relating to sections 490a and  
13 491.

14 (C) CHAPTER 24.—The table of sections at  
15 the beginning of chapter 24 of title 10, United  
16 States Code, as added by paragraph (1), is  
17 amended by inserting after the item relating to  
18 section 491 the following:

“492. Biennial assessment and report on the delivery platforms for nuclear  
weapons and the nuclear command and control system.

“493. Nuclear employment strategy of the United States: modification of strat-  
egy.”.

19 (3) CONFORMING AMENDMENT.—Section  
20 1041(b) of the National Defense Authorization Act  
21 for Fiscal Year 2012 (Public Law 112–81; 125 Stat.  
22 1574) is amended by striking “section 490a of title  
23 10, United States Code, as added by subsection

1 (a),” and inserting “section 492 of title 10, United  
2 States Code,”.

3 **SEC. 7. PREVENTION OF ASYMMETRY OF NUCLEAR WEAP-**  
4 **ON STOCKPILE REDUCTIONS.**

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

6 (1) Then Secretary of Defense Robert Gates  
7 warned in 2008 that, “There is no way to ignore ef-  
8 forts by rogue states such as North Korea and Iran  
9 to develop and deploy nuclear weapons or Russian or  
10 Chinese strategic modernization programs. To be  
11 sure, we do not consider Russia or China as adver-  
12 saries, but we cannot ignore these developments and  
13 the implications they have for our national secu-  
14 rity.”.

15 (2) The 2010 Nuclear Posture Review stated  
16 that, “large disparities in nuclear capabilities could  
17 raise concerns on both sides and among U.S. allies  
18 and partners, and may not be conducive to main-  
19 taining a stable, long-term strategic relationship, es-  
20 pecially as nuclear forces are significantly reduced.”.

21 (3) The Senate stated in the Resolution of Ad-  
22 vice and Consent to Ratification of the New START  
23 Treaty that, “It is the sense of the Senate that, in  
24 conducting the reductions mandated by the New  
25 START Treaty, the President should regulate reduc-

1 tions in United States strategic offensive arms so  
2 that the number of accountable strategic offensive  
3 arms under the New START Treaty possessed by  
4 the Russian Federation in no case exceeds the com-  
5 parable number of accountable strategic offensive  
6 arms possessed by the United States to such an ex-  
7 tent that a strategic imbalance endangers the na-  
8 tional security interests of the United States.”.

9 (4) At a hearing before the Committee on  
10 Armed Services of the House of Representatives in  
11 2011, Secretary of Defense Leon Panetta said, with  
12 respect to unilateral nuclear reductions by the  
13 United States, “I don’t think we ought to do that  
14 unilaterally—we ought to do that on the basis of ne-  
15 gotiations with the Russians and others to make  
16 sure we are all walking the same path.”.

17 (b) CERTIFICATION.—Section 1045 of the National  
18 Defense Authorization Act for Fiscal Year 2012 (50  
19 U.S.C. 2523b) is amended by adding at the end the fol-  
20 lowing new subsection:

21 “(d) PREVENTION OF ASYMMETRY IN REDUC-  
22 TIONS.—

23 “(1) CERTIFICATION.—During any year in  
24 which the President recommends to reduce the num-  
25 ber of nuclear weapons in the active and inactive

1 stockpiles of the United States by a number that is  
2 greater than one percent of the number of nuclear  
3 weapons in such stockpiles, the President shall cer-  
4 tify in writing to the congressional defense commit-  
5 tees whether such reductions will cause the number  
6 of nuclear weapons in such stockpiles to be fewer  
7 than the number of nuclear weapons in the active  
8 and inactive stockpiles of the Russian Federation.

9 “(2) LIMITATION.—If the President certifies  
10 under paragraph (1) that the recommended number  
11 of nuclear weapons in the active and inactive stock-  
12 piles of the United States is fewer than the number  
13 of nuclear weapons in the active and inactive stock-  
14 piles of the Russian Federation, none of the funds  
15 made available for fiscal year 2012 or any fiscal year  
16 thereafter for the Department of Defense or the Na-  
17 tional Nuclear Security Administration may be used  
18 to carry out any reduction to such stockpiles of the  
19 United States until—

20 “(A) after the date on which such certifi-  
21 cation is made, the President transmits to the  
22 congressional defense committees a report by  
23 the Commander of the United States Strategic  
24 Command, without change, detailing whether  
25 the recommended reduction would create a stra-

1           tegic imbalance between the total nuclear forces  
2           of the United States and the total nuclear  
3           forces of the Russian Federation; and

4                   “(B) a period of 180 days has elapsed fol-  
5           lowing the date on which such report is trans-  
6           mitted.

7                   “(3) EXCEPTION.—The limitation in paragraph  
8           (2) shall not apply to—

9                   “(A) reductions made to ensure the safety,  
10           security, reliability, and credibility of the nu-  
11           clear weapons stockpile and strategic delivery  
12           systems, including activities related to surveil-  
13           lance, assessment, certification, testing, and  
14           maintenance of nuclear warheads and strategic  
15           delivery systems; or

16                   “(B) nuclear warheads that are retired or  
17           awaiting dismantlement on the date of the cer-  
18           tification under paragraph (1).”.

19 **SEC. 8. CONSIDERATION OF EXPANSION OF NUCLEAR**  
20 **FORCES OF OTHER COUNTRIES.**

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

22                   (1) The Resolution of Advice and Consent to  
23           Ratification of the New START Treaty of the Sen-  
24           ate said, “It is the sense of the Senate that if, dur-  
25           ing the time the New START Treaty remains in

1 force, the President determines that there has been  
2 an expansion of the strategic arsenal of any country  
3 not party to the New START Treaty so as to jeop-  
4 ardize the supreme interests of the United States,  
5 then the President should consult on an urgent basis  
6 with the Senate to determine whether adherence to  
7 the New START Treaty remains in the national in-  
8 terest of the United States.”.

9 (2) In 2011, experts testified before the Com-  
10 mittee on Armed Services of the House of Rep-  
11 resentatives that—

12 (A) “Russia is modernizing every leg of its  
13 nuclear triad with new, more advanced sys-  
14 tems”, including new ballistic missile sub-  
15 marines, new heavy intercontinental ballistic  
16 missiles carrying up to 15 warheads each, new  
17 shorter range ballistic missiles, and new low-  
18 yield warheads; and

19 (B) “China is steadily increasing the num-  
20 bers and capabilities of the ballistic missiles it  
21 deploys and is upgrading older ICBMs to  
22 newer, more advanced systems. China also ap-  
23 pears to be actively working to develop a sub-  
24 marine-based nuclear deterrent force, something  
25 it has never had. . . . A recent unclassified De-

1           partment of Defense report says that this net-  
2           work of tunnels could be in excess of 5,000 kilo-  
3           meters and is used to transport nuclear weap-  
4           ons and forces.”.

5           (b) REPORT AND CERTIFICATION.—

6           (1) IN GENERAL.—Chapter 24 of title 10,  
7           United States Code, as added by section 6(b)(1), is  
8           amended by adding at the end the following new sec-  
9           tion:

10       **“§ 494. Consideration of expansion of nuclear forces**  
11                               **of other countries**

12       “(a) REPORT AND CERTIFICATION.—During any  
13       year in which the President recommends any reductions  
14       in the nuclear forces of the United States, none of the  
15       funds made available for fiscal year 2012 or any fiscal  
16       year thereafter for the Department of Defense or the Na-  
17       tional Nuclear Security Administration may be used for  
18       such recommended reduction until the date on which—

19               “(1) the President transmits to the congres-  
20       sional defense committees a report detailing, for  
21       each country with nuclear weapons—

22                       “(A) the number of each type of nuclear  
23       weapons possessed by such country;

24                       “(B) the modernization plans for such  
25       weapons of such country;

1           “(C) the production capacity of nuclear  
2 warheads and strategic delivery systems (as de-  
3 fined in section 491(c) of this title) of such  
4 country; and

5           “(D) the nuclear doctrine of such country;  
6 and

7           “(2) the Commander of the United States Stra-  
8 tegic Command certifies to the congressional defense  
9 committees whether such recommended reductions in  
10 the nuclear forces of the United States will—

11           “(A) impair the ability of the United  
12 States to address—

13           “(i) unplanned strategic or geo-  
14 political events; or

15           “(ii) technical challenge; or

16           “(B) degrade the deterrence or assurance  
17 provided by the United States to friends and al-  
18 lies of the United States.

19           “(b) FORM.—The reports required by subsection  
20 (a)(1) shall be submitted in unclassified form, but may  
21 include a classified annex.”.

22           (2) The table of sections at the beginning of  
23 chapter 24 of title 10, United States Code, is  
24 amended by inserting after the item relating to sec-  
25 tion 493 the following:

“494. Consideration of expansion of nuclear forces of other countries.”.

1 **SEC. 9. CHEMISTRY AND METALLURGY RESEARCH RE-**  
2 **PLACEMENT NUCLEAR FACILITY AND URA-**  
3 **NIUM PROCESSING FACILITY.**

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

5 (1) Administrator for Nuclear Security Thomas  
6 D’Agostino testified before the Committee on Armed  
7 Services of the House of Representatives in Feb-  
8 ruary 2008 that “Infrastructure improvements are a  
9 major part of the complex transformation plan that  
10 we have, and we’ve made important progress, but we  
11 have a lot more to do. Some major facilities that we  
12 have date back to World War II and cannot readily  
13 meet today’s safety and security requirements. Let  
14 me give you just two quick examples, if I could. A  
15 sufficient capability to work with plutonium is an es-  
16 sential part of a national security enterprise and is  
17 required for as long as we retain a nuclear deter-  
18 rent, and most likely even longer. Currently, we have  
19 a very small production capacity at Los Alamos,  
20 about 10 pits per year, at our TA-55 area. Our  
21 building at Los Alamos, the Chemistry and Metal-  
22 lurgy Research Facility, is well over 50 years old  
23 and is insufficient to support the national security  
24 requirements for the stockpile and for future na-  
25 tional security mission areas. So, whether we con-  
26 tinue on our existing path or move towards a re-

1 placement modern warhead-type stockpile, we still  
2 need the capacity to produce about 50 to 80 pits per  
3 year, which is less than one-tenth of our Cold War  
4 level, as well as the ability to carry out pit surveil-  
5 lance, which is an essential part of maintaining our  
6 stockpile.”.

7 (2) Then Commander of the United States  
8 Strategic Command General Kevin P. Chilton also  
9 testified in February 2008 that “When you have a  
10 responsive complex that has the capacity to flex to  
11 production as you may need it or adjust your de-  
12 ployed force posture in the future, should you need  
13 it—in other words, if we go to a lower number, you  
14 need to be certain that you can come back up,  
15 should the strategic environment change, and you  
16 can’t necessarily without that flexible or responsive  
17 infrastructure behind it, and that’s probably one of  
18 my great concerns. And then how you posture both  
19 the portion of your stockpile that you hold in reserve  
20 and your confidence in the weapons that you have  
21 deployed is very much a function of modernizing, in  
22 my view, the weapons systems that we have available  
23 today, which are, as the secretary described, of Cold  
24 War legacy design, and the associated issues with  
25 them.”.

1           (3) The Congressional Commission on the Stra-  
2           tegic Posture of the United States reported in May  
3           2009, with respect to the timing of the replacement  
4           of the nuclear weapons infrastructure of the United  
5           States, that “This raises an obvious question about  
6           whether these two replacement programs might pro-  
7           ceed in sequence rather than concurrently. There are  
8           strong arguments for moving forward concurrently.  
9           Existing facilities are genuinely decrepit and are  
10          maintained in a safe and secure manner only at high  
11          cost. Moreover, the improved production capabilities  
12          they promise are integral to the program of refur-  
13          bishment and modernization described in the pre-  
14          ceding chapter. If funding can be found for both,  
15          this would best serve the national interest in main-  
16          taining a safe, secure, and reliable stockpile of weap-  
17          ons in the most effective and efficient manner.”.

18           (4) The 2010 Nuclear Posture Review states—

19           (A) “The National Nuclear Security Ad-  
20           ministration (NNSA), in close coordination with  
21           DoD, will provide a new stockpile stewardship  
22           and management plan to Congress within 90  
23           days, consistent with the increases in infra-  
24           structure investment requested in the Presi-  
25           dent’s FY 2011 budget. As critical infrastruc-

1           ture is restored and modernized, it will allow  
2           the United States to begin to shift away from  
3           retaining large numbers of non-deployed war-  
4           heads as a technical hedge, allowing additional  
5           reductions in the U.S. stockpile of non-deployed  
6           nuclear weapons over time.”;

7           (B) “In order to sustain a safe, secure,  
8           and effective U.S. nuclear stockpile as long as  
9           nuclear weapons exist, the United States must  
10          possess a modern physical infrastructure—com-  
11          prised of the national security laboratories and  
12          a complex of supporting facilities.”;

13          (C) “Funding the Chemistry and Metal-  
14          lurgy Research Replacement Project at Los Al-  
15          amos National Laboratory to replace the exist-  
16          ing 50-year old Chemistry and Metallurgy Re-  
17          search facility in 2021.”;

18          (D) “Developing a new Uranium Proc-  
19          essing Facility at the Y-12 Plant in Oak Ridge,  
20          Tennessee to come on line for production oper-  
21          ations in 2021.”;

22          (E) “Without an ability to produce ura-  
23          nium components, any plan to sustain the  
24          stockpile, as well as support for our Navy nu-  
25          clear propulsion, will come to a halt. This would

1           have a significant impact, not just on the weap-  
2           ons program, but in dealing with nuclear dan-  
3           gers of many kinds.”; and

4           (F) “The non-deployed stockpile currently  
5           includes more warheads than required for the  
6           above purposes, due to the limited capacity of  
7           the National Nuclear Security Administration  
8           (NNSA) complex to conduct LEPs for deployed  
9           weapons in a timely manner. Progress in restor-  
10          ing NNSA’s production infrastructure will allow  
11          these excess warheads to be retired along with  
12          other stockpile reductions planned over the next  
13          decade.”.

14          (5) In the memorandum of agreement between  
15          the Department of Defense and the Department of  
16          Energy concerning the modernization of the nuclear  
17          weapon stockpile of the United States dated May 3,  
18          2010, then Secretary of Defense Robert Gates and  
19          Secretary of Energy Steven Chu agreed that “DOE  
20          Agrees to . . . increase pit production capacity . . .  
21          plan and program to ramp up to a minimum of 50–  
22          80 PPY in 2022.”.

23          (6) The plan required under section 1251 of the  
24          National Defense Authorization Act for Fiscal Year  
25          2010 (Public Law 111–84; 123 Stat. 2549) sub-

1 mitted by the President states that the Chemistry  
2 and Metallurgy Research Replacement building and  
3 the Uranium Processing Facility will complete con-  
4 struction by 2021 and will achieve full operational  
5 functionality by 2024.

6 (7) The Senate required that, prior to the entry  
7 into force of the New START Treaty, the President  
8 certifies to the Senate that the President intends  
9 to—

10 (A) accelerate to the extent possible the  
11 design and engineering phase of the Chemistry  
12 and Metallurgy Research Replacement building  
13 and the Uranium Processing Facility; and

14 (B) request full funding, including on a  
15 multiyear basis as appropriate, for the Chem-  
16 istry and Metallurgy Research Replacement  
17 building and the Uranium Processing Facility  
18 upon completion of the design and engineering  
19 phase for such facilities.

20 (8) The President did request full funding for  
21 such facilities on February 2, 2011, when the Presi-  
22 dent stated, “I intend to (a) accelerate, to the extent  
23 possible, the design and engineering phase of the  
24 Chemistry and Metallurgy Research Replacement  
25 (CMRR) building and the Uranium Processing Fa-

1 cility (UPF); and (b) request full funding, including  
2 on a multi-year basis as appropriate, for the CMRR  
3 building and the UPF upon completion of the design  
4 and engineering phase for such facilities.”.

5 (b) LIMITATION.—Section 1045 of the National De-  
6 fense Authorization Act for Fiscal Year 2012 (50 U.S.C.  
7 2523b) is further amended by adding at the end the fol-  
8 lowing new subsection:

9 “(e) CMRR AND UPF.—

10 “(1) ANNUAL CERTIFICATION.—Beginning fis-  
11 cal year 2013, the President shall annually certify in  
12 writing to the congressional defense committees  
13 whether—

14 “(A) the construction of both the Chem-  
15 istry and Metallurgy Research Replacement  
16 building and the Uranium Processing Facility  
17 will be completed by not later than 2021; and

18 “(B) both facilities will be fully operational  
19 by not later than 2024.

20 “(2) LIMITATION.—If the President certifies  
21 under paragraph (1) that the Chemistry and Metal-  
22 lurgy Research Replacement building and the Ura-  
23 nium Processing Facility will be completed by later  
24 than 2021 or be fully operational by later than  
25 2024, none of the funds made available for fiscal

1 year 2012 or any fiscal year thereafter for the Na-  
2 tional Nuclear Security Administration may be used  
3 to reduce the nondeployed nuclear warheads in the  
4 nuclear weapons stockpile of the United States until  
5 a period of 120 days has elapsed following the date  
6 of such certification.

7 “(3) EXCEPTION.—The limitation in paragraph  
8 (2) shall not apply to—

9 “(A) reductions made to ensure the safety,  
10 security, reliability, and credibility of the nu-  
11 clear weapons stockpile and delivery systems,  
12 including activities related to surveillance, as-  
13 sessment, certification, testing, and mainte-  
14 nance of nuclear warheads and strategic deliv-  
15 ery systems; or

16 “(B) nuclear warheads that are retired or  
17 awaiting dismantlement on the date of the cer-  
18 tification under paragraph (1).

19 “(4) TERMINATION.—The requirement in para-  
20 graph (1) shall terminate on the date on which the  
21 President certifies in writing to the congressional de-  
22 fense committees that the Chemistry and Metallurgy  
23 Research Replacement building and the Uranium  
24 Processing Facility are both fully operational.”.

1 **SEC. 10. NUCLEAR WARHEADS ON INTERCONTINENTAL**  
2 **BALLISTIC MISSILES OF THE UNITED STATES.**

3 (a) SENSE OF CONGRESS.—It is the sense of Con-  
4 gress that reducing the number of nuclear warheads con-  
5 tained on each intercontinental ballistic missile of the  
6 United States does not promote strategic stability if at  
7 the same time other nuclear weapons states, including the  
8 Russian Federation and the People’s Republic of China,  
9 are rapidly increasing the warhead-loading of their land-  
10 based missile forces.

11 (b) LIMITATION.—

12 (1) IN GENERAL.—Chapter 24 of title 10,  
13 United States Code, as added by section 6(b)(1), is  
14 amended by adding at the end the following new sec-  
15 tion:

16 **“§ 495. Nuclear warheads on intercontinental bal-**  
17 **listic missiles of the United States**

18 “(a) IN GENERAL.—During any year in which the  
19 President proposes to reduce the number of nuclear war-  
20 heads contained on an intercontinental ballistic missile of  
21 the United States, none of the funds made available for  
22 fiscal year 2012 or any fiscal year thereafter for the De-  
23 partment of Defense or the National Nuclear Security Ad-  
24 ministration may be used for such proposed reduction if  
25 the reduction results in such missile having only a single  
26 nuclear warhead unless the President certifies in writing

1 to the congressional defense committees that the Russian  
2 Federation and the People’s Republic of China are both  
3 also carrying out a similar reduction.

4 “(b) EXCEPTION.—The limitation in subsection (a)  
5 shall not apply to reductions made to ensure the safety,  
6 security, reliability, and credibility of the nuclear weapons  
7 stockpile and delivery systems, including activities related  
8 to surveillance, assessment, certification, testing, and  
9 maintenance of nuclear warheads and strategic delivery  
10 systems.”.

11 (2) The table of sections at the beginning of  
12 chapter 24 of title 10, United States Code, is  
13 amended by inserting after the item relating to sec-  
14 tion 494 the following:

“495. Nuclear warheads on intercontinental ballistic missiles of the United  
States.”.

15 **SEC. 11. NONSTRATEGIC NUCLEAR WEAPON REDUCTIONS**  
16 **AND EXTENDED DETERRENCE POLICY.**

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

18 (1) The NATO Strategic Concept of 2010 en-  
19 dored the continued role of nuclear weapons in the  
20 security of the NATO alliance, stating—

21 (A) “The supreme guarantee of the secu-  
22 rity of the Allies is provided by the strategic nu-  
23 clear forces of the Alliance, particularly those of  
24 the United States; the independent strategic

1 nuclear forces of the United Kingdom and  
2 France, which have a deterrent role of their  
3 own, contribute to the overall deterrence and  
4 security of the Allies.”;

5 (B) “We will ensure that NATO has the  
6 full range of capabilities necessary to deter and  
7 defend against any threat to the safety and se-  
8 curity of our populations. Therefore, we will  
9 . . . maintain an appropriate mix of nuclear  
10 and conventional forces”; and

11 (C) “[NATO will] ensure the broadest pos-  
12 sible participation of Allies in collective defence  
13 planning on nuclear roles, in peacetime basing  
14 of nuclear forces, and in command, control and  
15 consultation arrangements.”.

16 (2) However, the 2010 Strategic Concept also  
17 walked away from the decades-long policy encap-  
18 sulated by the 1999 Strategic Concept that said,  
19 “The presence of United States conventional and  
20 nuclear forces in Europe remains vital to the secu-  
21 rity of Europe, which is inseparably linked to that  
22 of North America.”.

23 (3) Former Secretary of Defense William Perry  
24 said in March 2011 testimony before the Sub-  
25 committee on Strategic Forces of the Committee on

1 Armed Services of the House of Representatives that  
2 “the reason we have nuclear weapons in Europe in  
3 the first place, is not because the rest of our weap-  
4 ons are not capable of deterrence, but because, dur-  
5 ing the Cold War at least, our allies in Europe felt  
6 more assured when we had nuclear weapons in Eu-  
7 rope. That is why they were deployed there in the  
8 first place. Today the issue is a little different. The  
9 issue is the Russians in the meantime have built a  
10 large number of nuclear weapons, and we keep our  
11 nuclear weapons there as somewhat of a political le-  
12 verage for dealing with an ultimate treaty in which  
13 we may get Russia and the United States to elimi-  
14 nate tactical nuclear weapons. My own view is it  
15 would be desirable if both the United States and  
16 Russia would eliminate tactical nuclear weapons, but  
17 I see it as very difficult to arrive at that conclusion  
18 if we were to simply eliminate all of our tactical nu-  
19 clear weapons unilaterally.”.

20 (4) During testimony before the Subcommittee  
21 on Strategic Forces of the Committee on Armed  
22 Services of the House of Representatives in July  
23 2011—

24 (A) former Department of Defense official  
25 Frank Miller stated, “as long as U.S. allies be-

1           lieve that those weapons need to be there, we  
2           need to make sure that we provide that secu-  
3           rity.”; and

4                   (B) former Department of Defense official  
5           Mort Halperin stated, “I do not think we  
6           should be willing to trade our withdrawal of our  
7           nuclear weapons from Europe for some reduc-  
8           tion, even a substantial reduction, in Russian  
9           tactical nuclear weapons because if it is . . .  
10          that the credibility of the American nuclear de-  
11          terrent for our NATO allies depends on the  
12          presence of nuclear weapons in Europe, that  
13          will not change if the Russians cut their tactical  
14          nuclear arsenal by two thirds, or even eliminate  
15          it because they will still have their strategic  
16          weapons, which, while they can’t have inter-  
17          mediate range missiles, they can find a way to  
18          target them on the NATO countries.”.

19                (5) Section 1237(b) of the National Defense  
20          Authorization Act for Fiscal Year 2012 (Public Law  
21          112–81) expressed the sense of Congress that—

22                   (A) the commitment of the United States  
23          to extended deterrence in Europe and the nu-  
24          clear alliance of NATO is an important compo-  
25          nent of ensuring and linking the national secu-

1 rity of the United States and its European al-  
2 lies;

3 (B) the nuclear forces of the United States  
4 are a key component of the NATO nuclear alli-  
5 ance; and

6 (C) the presence of the nuclear weapons of  
7 the United States in Europe—combined with  
8 NATO’s unique nuclear sharing arrangements  
9 under which non-nuclear members participate  
10 in nuclear planning and possess specially con-  
11 figured aircraft capable of delivering nuclear  
12 weapons—provides reassurance to NATO allies  
13 who feel exposed to regional threats.

14 (b) LIMITATION.—Chapter 24 of title 10, United  
15 States Code, as added by section 6(b)(1), is amended by  
16 adding at the end the following new section:

17 **“§ 496. Limitation on reduction, consolidation, or**  
18 **withdrawal of nuclear forces based in Eu-**  
19 **rope**

20 “(a) POLICY ON NONSTRATEGIC NUCLEAR WEAP-  
21 ONS.—It is the policy of the United States—

22 “(1) to pursue negotiations with the Russian  
23 Federation aimed at the reduction of Russian de-  
24 ployed and nondeployed, nonstrategic nuclear forces;

1           “(2) that nonstrategic nuclear weapons should  
2           be considered when weighing the balance of the nu-  
3           clear forces of the United States and the Russian  
4           Federation;

5           “(3) that any geographical relocation or storage  
6           of nonstrategic nuclear weapons by the Russian Fed-  
7           eration does not constitute a reduction or elimi-  
8           nation of such weapons;

9           “(4) the vast advantage of the Russian Federa-  
10          tion in nonstrategic nuclear weapons constitutes a  
11          threat to the United States and its allies and a  
12          growing asymmetry in Western Europe; and

13          “(5) the forward-deployed nuclear forces of the  
14          United States are an important contributor to the  
15          assurance of the allies of the United States and con-  
16          stitute a check on proliferation and a tool in dealing  
17          with neighboring states hostile to NATO.

18          “(b) POLICY ON EXTENDED DETERRENCE COMMIT-  
19          MENT TO EUROPE.—It is the policy of the United States  
20          that—

21                 “(1) it maintain its commitment to extended  
22                 deterrence, specifically the nuclear alliance of the  
23                 North Atlantic Treaty Organization, as an impor-  
24                 tant component of ensuring and linking the national

1 security interests of the United States and the secu-  
2 rity of its European allies;

3 “(2) forward-deployed nuclear forces of the  
4 United States shall remain based in Europe in sup-  
5 port of the nuclear policy and posture of NATO;

6 “(3) the presence of nuclear weapons of the  
7 United States in Europe—combined with NATO’s  
8 unique nuclear sharing arrangements under which  
9 non-nuclear members participate in nuclear planning  
10 and possess specially configured aircraft capable of  
11 delivering nuclear weapons—contributes to the cohe-  
12 sion of NATO and provides reassurance to allies and  
13 partners who feel exposed to regional threats; and

14 “(4) only the President and Congress can ar-  
15 ticulate when and how the United States will employ  
16 the nuclear forces of the United States and no mul-  
17 tilateral organization, not even NATO, can articu-  
18 late a declaratory policy concerning the use of nu-  
19 clear weapons that binds the United States.

20 “(c) LIMITATION ON REDUCTION, CONSOLIDATION,  
21 OR WITHDRAWAL OF NUCLEAR FORCES BASED IN EU-  
22 ROPE.—In light of the policy expressed in subsections (a)  
23 and (b), none of the funds made available for fiscal year  
24 2012 or any fiscal year thereafter for the Department of  
25 Defense may be used to effect or implement the reduction,

1 consolidation, or withdrawal of nuclear forces of the  
2 United States that are based in Europe unless—

3 “(1) the reduction, consolidation, or withdrawal  
4 of such nuclear forces is requested by the govern-  
5 ment of the host nation in the manner provided in  
6 the agreement between the United States and the  
7 host nation regarding the forces;

8 “(2) the President certifies that—

9 “(A) NATO member states have consid-  
10 ered the reduction, consolidation, or withdrawal  
11 in the High Level Group;

12 “(B) NATO has decided to support such  
13 reduction, consolidation, or withdrawal;

14 “(C) the remaining nuclear forces of the  
15 United States that are based in Europe after  
16 such reduction, consolidation, or withdrawal  
17 would provide a commensurate or better level of  
18 assurance and credibility as before such reduc-  
19 tion, consolidation, or withdrawal; and

20 “(D) there has been reciprocal action by  
21 the Russian Federation, not including the Rus-  
22 sian Federation relocating nuclear forces from  
23 one location to another; or

1           “(3) the reduction, consolidation, or withdrawal  
2           of such nuclear forces is specifically authorized by  
3           an Act of Congress.

4           “(d) NOTIFICATION.—Upon any decision to reduce,  
5           consolidate, or withdraw the nuclear forces of the United  
6           States that are based in Europe, the President shall sub-  
7           mit to the appropriate congressional committees a notifi-  
8           cation containing—

9           “(1) the certification required by paragraph (2)  
10          of subsection (c) if such reduction, consolidation, or  
11          withdrawal is based upon such paragraph;

12          “(2) justification for such reduction, consolida-  
13          tion, or withdrawal; and

14          “(3) an assessment of how NATO member  
15          states, in light of such reduction, consolidation, or  
16          withdrawal, assess the credibility of the deterrence  
17          capability of the United States in support of its com-  
18          mitments undertaken pursuant to article 5 of the  
19          North Atlantic Treaty, signed at Washington, Dis-  
20          trict of Columbia, on April 4, 1949, and entered into  
21          force on August 24, 1949 (63 Stat. 2241; TIAS  
22          1964).

23          “(e) NOTICE AND WAIT REQUIREMENT.—The Presi-  
24          dent may not commence a reduction, consolidation, or  
25          withdrawal of the nuclear forces of the United States that

1 are based in Europe for which the certification required  
2 by subsection (e)(2) is made until the expiration of a 180-  
3 day period beginning on the date on which the President  
4 submits the notification under subsection (d) containing  
5 the certification.

6 “(f) APPROPRIATE CONGRESSIONAL COMMITTEES.—  
7 In this section, the term ‘appropriate congressional com-  
8 mittees’ means—

9 “(1) the Committees on Armed Services of the  
10 House of Representatives and the Senate; and

11 “(2) the Committee on Foreign Affairs of the  
12 House of Representatives and the Committee on  
13 Foreign Relations of the Senate.”.

14 (c) CLERICAL AMENDMENT.—The table of sections  
15 at the beginning of chapter 24 of title 10, United States  
16 Code, is amended by inserting after the item relating to  
17 section 495 the following:

“496. Limitation on reduction, consolidation, or withdrawal of nuclear forces  
based in Europe.”.

○