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”.


(b) **TABLE OF CONTENTS.**—The table of contents for 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.**

In this Act:

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


4 **SEC. 3. COMMITMENTS FOR NUCLEAR WEAPONS STOCKPILE MODERNIZATION.**

Congress finds the following:

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

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

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

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

(B) “[I]mplementation of the Stockpile
Stewardship Program and the nuclear infra-
structure investments recommended in the NPR
will allow the United States to shift away from
retaining large numbers of non-deployed war-heads as a hedge against technical or geo-political surprise, allowing major reductions in the nuclear stockpile. These investments are essential to facilitating reductions while sustaining deterrence under New START and beyond.”.

(4) Section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549) required the President to submit a report to Congress on the plan for the nuclear weapons stockpile, nuclear weapons complex, and delivery platforms at the time a follow-on treaty to the Strategic Arms Reduction Treaty was submitted by the President to the Senate. The President submitted such report in May 2010 and submitted updates in November 2010 and February 2011.

(5) Such section 1251 also contained a sense of Congress that “the enhanced safety, security, and reliability of the nuclear weapons stockpile, modernization of the nuclear weapons complex, and maintenance of nuclear delivery systems are key to enabling further reductions in the nuclear forces of the United States.”.
(6) Forty-one Senators wrote to President Obama on December 15, 2009, stating, “we don’t believe further reductions can be in the national security interest of the U.S. in the absence of a significant program to modernize our nuclear deterrent.”

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

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

(9) Former Secretary of State Henry Kissinger also stated in May 2010 while testifying before the Committee on Foreign Relations of the Senate that
“as part of a number of recommendations, my colleagues, Bill Perry, George Shultz, Sam Nunn, and I have called for significant investments in a repaired and modernized nuclear weapons infrastructure and added resources for the three national laboratories.”.

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

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

(12) The Directors of the national nuclear weapons laboratories wrote to the chairman and ranking member of the Committee on Foreign Relations of the Senate in December 2010 that “We are very pleased by the update to the Section 1251 Report, as it would enable the laboratories to execute
our requirements for ensuring a safe, secure, reliable and effective stockpile under the Stockpile Stewardship and Management Plan. In particular, we are pleased because it clearly responds to many of the concerns that we and others have voiced in the past about potential future-year funding shortfalls, and it substantially reduces risks to the overall program. In summary, we believe that the proposed budgets provide adequate support to sustain the safety, security, reliability and effectiveness of America’s nuclear deterrent within the limit of 1,550 deployed strategic warheads established by the New START Treaty with adequate confidence and acceptable risk.”

(13) President Obama pledged, in a December 2010 letter to several Senators, “I recognize that nuclear modernization requires investment for the long-term. . . . That is my commitment to the Congress—that my Administration will pursue these programs and capabilities for as long as I am President.”

(14) Secretary Gates added in May 2011 that, “this modernization program was very carefully worked out between ourselves and the Department of Energy; and, frankly, where we came out on that
played a fairly significant role in the willingness of
the Senate to ratify the New START agreement.”.

(15) The Administrator for Nuclear Security,
Thomas D’Agostino, testified before Congress in No-

vember 2011 that, “it is critical to accept the link-
age between modernizing our current stockpile in
order to achieve the policy objective of decreasing
the number of weapons we have in our stockpile,
while still ensuring that the deterrent is safe, secure,
and effective.”.

SEC. 4. LIMITATION AND REPORT IN THE EVENT OF INSUF-
FICIENT FUNDING FOR MODERNIZATION OF
NUCLEAR WEAPONS STOCKPILE.
(a) SENSE OF CONGRESS.—It is the sense of Con-
gress that—

(1) consistent with Condition 9 of the Resolu-
tion of Advice and Consent to Ratification of the
New START Treaty of the Senate, agreed to on De-
cember 22, 2011, the United States is committed to
ensuring the safety, security, reliability, and credi-

bility of its nuclear forces; and

(2) the United States is committed to—

(A) proceeding with a robust stockpile
stewardship program and maintaining and mod-
ernizing nuclear weapons production capabilities
and capacities of the United States to ensure
the safety, security, reliability, and credibility of
the nuclear arsenal of the United States at the
New START Treaty levels and meeting require-
ments for hedging against possible international
developments or technical problems;

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

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

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

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

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

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

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

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

“(II) an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;
“(iii) any effects caused by the short-
fall on the safety, security, reliability, or 
credibility of the nuclear forces of the 
United States; and

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

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

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

“(ii) a period of 120 days has elapsed 
following the date on which such certifi-
cation is made.
“(C) EXCEPTION.—The limitation in subparagraph (B) shall not apply to—

“(i) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and strategic delivery systems; or

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

“(D) DEFINITIONS.—In this paragraph:

“(i) The term ‘appropriate congressional committees’ means—

“(I) the congressional defense committees; and

“(II) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

“(ii) The term ‘New START Treaty’ means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduc-
tion and Limitation of Strategic Offensive
Arms, signed on April 8, 2010, and en-
tered into force on February 5, 2011.”.

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

SEC. 5. PROGRESS OF MODERNIZATION.

(a) FINDINGS.—Congress finds the following:

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

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

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

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our allies and partners. This will require an updated assessment of deterrence requirements; further improvements in U.S., allied, and partner non-nuclear capabilities; focused reductions in strategic and non-strategic weapons; and close consultations with allies and partners. The United States will continue to ensure that, in the calculations of any potential opponent, the perceived gains of attacking the United States or its allies and partners would be far outweighed by the unacceptable costs of the response.”;

(B) “Second, implementation of the Stockpile Stewardship Program and the nuclear infrastructure investments recommended in the NPR will allow the United States to shift away from retaining large numbers of non-deployed warheads as a hedge against technical or geopolitical surprise, allowing major reductions in the nuclear stockpile. These investments are essential to facilitating reductions while sustaining deterrence under New START and beyond.”; and

(C) “Third, Russia’s nuclear force will remain a significant factor in determining how
much and how fast we are prepared to reduce U.S. forces. Because of our improved relations, the need for strict numerical parity between the two countries is no longer as compelling as it was during the Cold War. But large disparities in nuclear capabilities could raise concerns on both sides and among U.S. allies and partners, and may not be conducive to maintaining a stable, long-term strategic relationship, especially as nuclear forces are significantly reduced. Therefore, we will place importance on Russia joining us as we move to lower levels.”.

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

(4) The Secretary of Defense has warned in testimony before the Committee on Armed Services of the House of Representatives regarding the sequestration mechanism under section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 that “if this sequester goes into effect
and it doubles the number of cuts, then it’ll truly devastate our national defense, because it will then require that we have to go at our force structure. We will have to hollow it out . . . [i]t will badly damage our capabilities for the future. . . . And if you have a smaller force, you’re not going to be able to be out there responding in as many areas as we do now.”.

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

(6) The President requested the promised $7,600,000,000 for weapons activities of the National Nuclear Security Administration in fiscal year 2012 but signed an appropriations Act for fiscal year 2012 that provided only $7,233,997,000, a substantial reduction to only the second year of the ten-year plan under section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549).

(7) The President requested only $7,577,341,000 for weapons activities of the National Nuclear Security Administration in fiscal year
2013 while the President's section 1251 plan promised $7,900,000,000.

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

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

(10) When asked at a hearing if the New START Treaty allowed the United States “to maintain a nuclear arsenal that is more than is needed to guarantee an adequate deterrent,” then Com-
mander of the United States Strategic Command, General Kevin P. Chilton said, “I do not agree that it is more than is needed. I think the arsenal that we have is exactly what is needed today to provide the deterrent.”.

(b) **Nuclear Employment Strategy.**—Section 491 of title 10, United States Code, is amended—

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

(2) by inserting after subsection (a) the following new subsection (b):

“(b) LIMITATION.—With respect to a new nuclear employment strategy described in a report submitted to Congress under subsection (a), none of the funds made available for fiscal year 2012 or any fiscal year thereafter for the Department of Defense may be used to implement such strategy until a period of one year has elapsed following the date on which such report is submitted to Congress.”; and

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

(c) **Limitation.**—During each of fiscal years 2012 through 2021, none of the funds made available for each such fiscal year for the Department of Defense may be used to carry out the results of the decisions made pursuant to the 2010 Nuclear Posture Review Implementation
Study until the date on which the President certifies to the congressional defense committees that—

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

(2) the resources described in paragraph (1) have been provided to the President in an appropriations Act; and

(3) the sequestration mechanism under section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 has been repealed or the sequestration mechanism under such section for the security category has otherwise been terminated.

SEC. 6. LIMITATION ON STRATEGIC DELIVERY SYSTEM REDUCTIONS.

(a) FINDINGS.—Congress finds the following:

(1) The Nuclear Posture Review of 2010 said, with respect to modernizing the triad, “for planned reductions under New START, the United States should retain a smaller Triad of SLBMs, ICBMs,
and heavy bombers. Retaining all three Triad legs will best maintain strategic stability at reasonable cost, while hedging against potential technical problems or vulnerabilities.”.

(2) The Senate stated in Declaration 13 of the Resolution of Advice and Consent to Ratification of the New START Treaty that “In accordance with paragraph 1 of Article V of the New START Treaty, which states that, ‘Subject to the provisions of this Treaty, modernization and replacement of strategic offensive arms may be carried out,’ it is the sense of the Senate that United States deterrence and flexibility is assured by a robust triad of strategic delivery vehicles. To this end, the United States is committed to accomplishing the modernization and replacement of its strategic nuclear delivery vehicles, and to ensuring the continued flexibility of United States conventional and nuclear delivery systems.”.

(3) The Senate required the President, prior to the entry into force of the New START Treaty, to certify to the Senate that the President intended to modernize or replace the triad of strategic nuclear delivery systems.
(4) The President made this certification in a message to the Senate on February 2, 2011, in which the President stated, “I intend to (a) modernize or replace the triad of strategic nuclear delivery systems: a heavy bomber and air-launched cruise missile, an ICBM, and a nuclear-powered ballistic missile submarine (SSBN) and SLBM; and (b) maintain the United States rocket motor industrial base.”.

(b) LIMITATION.—

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

“CHAPTER 24—NUCLEAR POSTURE

“Sec.
“491. Strategic delivery system reductions.

“§ 491. Strategic delivery system reductions

“(a) ANNUAL CERTIFICATION.—Beginning fiscal year 2013, the President shall annually certify in writing to the congressional defense committees whether plans to modernize or replace strategic delivery systems are fully resourced and being executed at a level equal to or more than the levels set forth in the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public
Law 111–84; 123 Stat. 2549), including plans regarding—

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

“(2) an intercontinental ballistic missile;

“(3) a submarine-launched ballistic missile;

“(4) a ballistic missile submarine; and

“(5) maintaining—

“(A) the nuclear command and control system; and

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

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

“(c) EXCEPTION.—The limitation in subsection (b) shall not apply to—
“(1) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and delivery systems; or

“(2) strategic delivery systems that are retired or awaiting dismantlement on the date of the certification under subsection (a).

“(d) DEFINITIONS.—In this section:


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

(2) CLERICAL AMENDMENTS.—

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

“24. Nuclear posture .................................................................................. 491”.

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

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

(ii) Section 491, as amended by section 5(b), is transferred to chapter 24, inserted after section 492, and redesignated as section 493.

(iii) The table of sections at the beginning of such chapter is amended by striking the items relating to sections 490a and 491.

(C) Chapter 24.—The table of sections at the beginning of chapter 24 of title 10, United States Code, as added by paragraph (1), is amended by inserting after the item relating to 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 strategy."

(3) Conforming Amendment.—Section 1041(b) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1574) is amended by striking "section 490a of title 10, United States Code, as added by subsection
(a),” and inserting “section 492 of title 10, United States Code,”.

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

(a) FINDINGS.—Congress finds the following:

(1) Then Secretary of Defense Robert Gates warned in 2008 that, “There is no way to ignore efforts by rogue states such as North Korea and Iran to develop and deploy nuclear weapons or Russian or Chinese strategic modernization programs. To be sure, we do not consider Russia or China as adversaries, but we cannot ignore these developments and the implications they have for our national secu-

(2) The 2010 Nuclear Posture Review stated that, “large disparities in nuclear capabilities could raise concerns on both sides and among U.S. allies and partners, and may not be conducive to maintain-

(3) The Senate stated in the Resolution of Ad-
vice and Consent to Ratification of the New START Treaty that, “It is the sense of the Senate that, in
conducting the reductions mandated by the New START Treaty, the President should regulate reduc-
tions in United States strategic offensive arms so
that the number of accountable strategic offensive
arms under the New START Treaty possessed by
the Russian Federation in no case exceeds the com-
parable number of accountable strategic offensive
arms possessed by the United States to such an ex-
tent that a strategic imbalance endangers the na-
tional security interests of the United States.”.

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

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

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

“(1) CERTIFICATION.—During any year in
which the President recommends to reduce the num-
ber of nuclear weapons in the active and inactive
stockpiles of the United States by a number that is greater than one percent of the number of nuclear weapons in such stockpiles, the President shall certify in writing to the congressional defense committees whether such reductions will cause the number of nuclear weapons in such stockpiles to be fewer than the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation.

“(2) LIMITATION.—If the President certifies under paragraph (1) that the recommended number of nuclear weapons in the active and inactive stockpiles of the United States is fewer than the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation, none of the funds made available for fiscal year 2012 or any fiscal year thereafter for the Department of Defense or the National Nuclear Security Administration may be used to carry out any reduction to such stockpiles of the United States until—

“(A) after the date on which such certification is made, the President transmits to the congressional defense committees a report by the Commander of the United States Strategic Command, without change, detailing whether the recommended reduction would create a stra-
ategic imbalance between the total nuclear forces of the United States and the total nuclear forces of the Russian Federation; and

“(B) a period of 180 days has elapsed following the date on which such report is transmitted.

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

“(A) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and strategic delivery systems; or

“(B) nuclear warheads that are retired or awaiting dismantlement on the date of the certification under paragraph (1).”.

SEC. 8. CONSIDERATION OF EXPANSION OF NUCLEAR FORCES OF OTHER COUNTRIES.

(a) FINDINGS.—Congress finds the following:

(1) The Resolution of Advice and Consent to Ratification of the New START Treaty of the Senate said, “It is the sense of the Senate that if, during the time the New START Treaty remains in
force, the President determines that there has been
an expansion of the strategic arsenal of any country
not party to the New START Treaty so as to jeop-
ardize the supreme interests of the United States,
then the President should consult on an urgent basis
with the Senate to determine whether adherence to
the New START Treaty remains in the national in-
terest of the United States.”.

(2) In 2011, experts testified before the Com-
mittee on Armed Services of the House of Rep-
resentatives that—
   (A) “Russia is modernizing every leg of its
nuclear triad with new, more advanced sys-
tems”, including new ballistic missile sub-
marines, new heavy intercontinental ballistic
missiles carrying up to 15 warheads each, new
shorter range ballistic missiles, and new low-
yield warheads; and
   (B) “China is steadily increasing the num-
bers and capabilities of the ballistic missiles it
deploys and is upgrading older ICBMs to
newer, more advanced systems. China also ap-
ppears to be actively working to develop a sub-
marine-based nuclear deterrent force, something
it has never had. . . . A recent unclassified De-
partment of Defense report says that this network of tunnels could be in excess of 5,000 kilometers and is used to transport nuclear weapons and forces.”.

(b) Report and Certification.—

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

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§ 494. Consideration of expansion of nuclear forces of other countries

(a) Report and Certification.—During any year in which the President recommends any reductions in the nuclear forces of the United States, none of the funds made available for fiscal year 2012 or any fiscal year thereafter for the Department of Defense or the National Nuclear Security Administration may be used for such recommended reduction until the date on which—

“(1) the President transmits to the congressional defense committees a report detailing, for each country with nuclear weapons—

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

“(B) the modernization plans for such weapons of such country;
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“(C) the production capacity of nuclear warheads and strategic delivery systems (as defined in section 491(c) of this title) of such country; and

“(D) the nuclear doctrine of such country;

“(2) the Commander of the United States Strategic Command certifies to the congressional defense committees whether such recommended reductions in the nuclear forces of the United States will—

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

“(i) unplanned strategic or geopolitical events; or

“(ii) technical challenge; or

“(B) degrade the deterrence or assurance provided by the United States to friends and allies of the United States.

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

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

“494. Consideration of expansion of nuclear forces of other countries.”.
SEC. 9. CHEMISTRY AND METALLURGY RESEARCH REPLACEMENT NUCLEAR FACILITY AND URANIUM PROCESSING FACILITY.

(a) FINDINGS.—Congress finds the following:

(1) Administrator for Nuclear Security Thomas D’Agostino testified before the Committee on Armed Services of the House of Representatives in February 2008 that “Infrastructure improvements are a major part of the complex transformation plan that we have, and we’ve made important progress, but we have a lot more to do. Some major facilities that we have date back to World War II and cannot readily meet today’s safety and security requirements. Let me give you just two quick examples, if I could. A sufficient capability to work with plutonium is an essential part of a national security enterprise and is required for as long as we retain a nuclear deterrent, and most likely even longer. Currently, we have a very small production capacity at Los Alamos, about 10 pits per year, at our TA–55 area. Our building at Los Alamos, the Chemistry and Metallurgy Research Facility, is well over 50 years old and is insufficient to support the national security requirements for the stockpile and for future national security mission areas. So, whether we continue on our existing path or move towards a re-
placement modern warhead-type stockpile, we still
need the capacity to produce about 50 to 80 pits per
year, which is less than one-tenth of our Cold War
level, as well as the ability to carry out pit surveil-
lance, which is an essential part of maintaining our
stockpile.”.

(2) Then Commander of the United States
Strategic Command General Kevin P. Chilton also
testified in February 2008 that “When you have a
responsive complex that has the capacity to flex to
production as you may need it or adjust your de-
ployed force posture in the future, should you need
it—in other words, if we go to a lower number, you
need to be certain that you can come back up,
should the strategic environment change, and you
can’t necessarily without that flexible or responsive
infrastructure behind it, and that’s probably one of
my great concerns. And then how you posture both
the portion of your stockpile that you hold in reserve
and your confidence in the weapons that you have
deployed is very much a function of modernizing, in
my view, the weapons systems that we have available
today, which are, as the secretary described, of Cold
War legacy design, and the associated issues with
them.”.
(3) The Congressional Commission on the Strategic Posture of the United States reported in May 2009, with respect to the timing of the replacement of the nuclear weapons infrastructure of the United States, that “This raises an obvious question about whether these two replacement programs might proceed in sequence rather than concurrently. There are strong arguments for moving forward concurrently. Existing facilities are genuinely decrepit and are maintained in a safe and secure manner only at high cost. Moreover, the improved production capabilities they promise are integral to the program of refurbishment and modernization described in the preceding chapter. If funding can be found for both, this would best serve the national interest in maintaining a safe, secure, and reliable stockpile of weapons in the most effective and efficient manner.”.

(4) The 2010 Nuclear Posture Review states—

(A) “The National Nuclear Security Administration (NNSA), in close coordination with DoD, will provide a new stockpile stewardship and management plan to Congress within 90 days, consistent with the increases in infrastructure investment requested in the President’s FY 2011 budget. As critical infrastruc-
ture is restored and modernized, it will allow the United States to begin to shift away from retaining large numbers of non-deployed warheads as a technical hedge, allowing additional reductions in the U.S. stockpile of non-deployed nuclear weapons over time.”;

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

(C) “Funding the Chemistry and Metallurgy Research Replacement Project at Los Alamos National Laboratory to replace the existing 50-year old Chemistry and Metallurgy Research facility in 2021.”;

(D) “Developing a new Uranium Processing Facility at the Y–12 Plant in Oak Ridge, Tennessee to come on line for production operations in 2021.”;

(E) “Without an ability to produce uranium components, any plan to sustain the stockpile, as well as support for our Navy nuclear propulsion, will come to a halt. This would
have a significant impact, not just on the weapons program, but in dealing with nuclear dangers of many kinds.”; and

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

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

(6) The plan required under section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549) sub-
mitted by the President states that the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility will complete construction by 2021 and will achieve full operational functionality by 2024.

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

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

(B) request full funding, including on a multiyear basis as appropriate, for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

(8) The President did request full funding for such facilities on February 2, 2011, when the President stated, “I intend to (a) accelerate, to the extent possible, the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Fa-
(b) LIMITATION.—Section 1045 of the National Defense Authorization Act for Fiscal Year 2012 (50 U.S.C. 2523b) is further amended by adding at the end the following new subsection:

“(e) CMRR AND UPF.—

“(1) ANNUAL CERTIFICATION.—Beginning fiscal year 2013, the President shall annually certify in writing to the congressional defense committees whether—

“(A) the construction of both the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility will be completed by not later than 2021; and

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

“(2) LIMITATION.—If the President certifies under paragraph (1) that the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility will be completed by later than 2021 or be fully operational by later than 2024, none of the funds made available for fiscal
year 2012 or any fiscal year thereafter for the Na-
tional Nuclear Security Administration may be used
to reduce the nondeployed nuclear warheads in the
nuclear weapons stockpile of the United States until
a period of 120 days has elapsed following the date
of such certification.

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

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

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

“(4) TERMINATION.—The requirement in para-
graph (1) shall terminate on the date on which the
President certifies in writing to the congressional de-
fense committees that the Chemistry and Metallurgy
Research Replacement building and the Uranium
Processing Facility are both fully operational.”.
SEC. 10. NUCLEAR WARHEADS ON INTERCONTINENTAL BALLISTIC MISSILES OF THE UNITED STATES.

(a) Sense of Congress.—It is the sense of Congress that reducing the number of nuclear warheads contained on each intercontinental ballistic missile of the United States does not promote strategic stability if at the same time other nuclear weapons states, including the Russian Federation and the People’s Republic of China, are rapidly increasing the warhead-loading of their land-based missile forces.

(b) Limitation.—

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

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

“(a) In General.—During any year in which the President proposes to reduce the number of nuclear warheads contained on an intercontinental ballistic missile of the United States, none of the funds made available for fiscal year 2012 or any fiscal year thereafter for the Department of Defense or the National Nuclear Security Administration may be used for such proposed reduction if the reduction results in such missile having only a single nuclear warhead unless the President certifies in writing—
to the congressional defense committees that the Russian Federation and the People’s Republic of China are both also carrying out a similar reduction.

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

(2) The table of sections at the beginning of chapter 24 of title 10, United States Code, is amended by inserting after the item relating to section 494 the following:

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

SEC. 11. NONSTRATEGIC NUCLEAR WEAPON REDUCTIONS AND EXTENDED DETERRENCE POLICY.

(a) FINDINGS.—Congress finds the following:

(1) The NATO Strategic Concept of 2010 endorsed the continued role of nuclear weapons in the security of the NATO alliance, stating—

(A) “The supreme guarantee of the security of the Allies is provided by the strategic nuclear forces of the Alliance, particularly those of the United States; the independent strategic
nuclear forces of the United Kingdom and France, which have a deterrent role of their own, contribute to the overall deterrence and security of the Allies.”;

(B) “We will ensure that NATO has the full range of capabilities necessary to deter and defend against any threat to the safety and security of our populations. Therefore, we will . . . maintain an appropriate mix of nuclear and conventional forces”; and

(C) “[NATO will] ensure the broadest possible participation of Allies in collective defence planning on nuclear roles, in peacetime basing of nuclear forces, and in command, control and consultation arrangements.”.

(2) However, the 2010 Strategic Concept also walked away from the decades-long policy encapsulated by the 1999 Strategic Concept that said, “The presence of United States conventional and nuclear forces in Europe remains vital to the security of Europe, which is inseparably linked to that of North America.”.

(3) Former Secretary of Defense William Perry said in March 2011 testimony before the Subcommittee on Strategic Forces of the Committee on
Armed Services of the House of Representatives that
“the reason we have nuclear weapons in Europe in
the first place, is not because the rest of our weap-
ons are not capable of deterrence, but because, dur-
ing the Cold War at least, our allies in Europe felt
more assured when we had nuclear weapons in Eu-
rope. That is why they were deployed there in the
first place. Today the issue is a little different. The
issue is the Russians in the meantime have built a
large number of nuclear weapons, and we keep our
nuclear weapons there as somewhat of a political le-
verage for dealing with an ultimate treaty in which
we may get Russia and the United States to elimi-
nate tactical nuclear weapons. My own view is it
would be desirable if both the United States and
Russia would eliminate tactical nuclear weapons, but
I see it as very difficult to arrive at that conclusion
if we were to simply eliminate all of our tactical nu-
clear weapons unilaterally.”.

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

(A) former Department of Defense official
Frank Miller stated, “as long as U.S. allies be-
lieve that those weapons need to be there, we need to make sure that we provide that security.”; and

(B) former Department of Defense official Mort Halperin stated, “I do not think we should be willing to trade our withdrawal of our nuclear weapons from Europe for some reduction, even a substantial reduction, in Russian tactical nuclear weapons because if it is . . . that the credibility of the American nuclear deterrent for our NATO allies depends on the presence of nuclear weapons in Europe, that will not change if the Russians cut their tactical nuclear arsenal by two thirds, or even eliminate it because they will still have their strategic weapons, which, while they can’t have intermediate range missiles, they can find a way to target them on the NATO countries.”.

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

(A) the commitment of the United States to extended deterrence in Europe and the nuclear alliance of NATO is an important component of ensuring and linking the national secu-
rity of the United States and its European allies;

(B) the nuclear forces of the United States are a key component of the NATO nuclear alliance; and

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

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

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

“(a) POLICY ON NONSTRATEGIC NUCLEAR WEAPONS.—It is the policy of the United States—

“(1) to pursue negotiations with the Russian Federation aimed at the reduction of Russian deployed and nondeployed, nonstrategic nuclear forces;
“(2) that nonstrategic nuclear weapons should be considered when weighing the balance of the nuclear forces of the United States and the Russian Federation;

“(3) that any geographical relocation or storage of nonstrategic nuclear weapons by the Russian Federation does not constitute a reduction or elimination of such weapons;

“(4) the vast advantage of the Russian Federation in nonstrategic nuclear weapons constitutes a threat to the United States and its allies and a growing asymmetry in Western Europe; and

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

“(b) Policy on Extended Deterrence Commitment to Europe.—It is the policy of the United States that—

“(1) it maintain its commitment to extended deterrence, specifically the nuclear alliance of the North Atlantic Treaty Organization, as an important component of ensuring and linking the national
security interests of the United States and the security of its European allies;

“(2) forward-deployed nuclear forces of the United States shall remain based in Europe in support of the nuclear policy and posture of NATO;

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

“(4) only the President and Congress can articulate when and how the United States will employ the nuclear forces of the United States and no multilateral organization, not even NATO, can articulate a declaratory policy concerning the use of nuclear weapons that binds the United States.

“(c) Limitation on Reduction, Consolidation, or Withdrawal of Nuclear Forces Based in Europe.—In light of the policy expressed in subsections (a) and (b), none of the funds made available for fiscal year 2012 or any fiscal year thereafter for the Department of Defense may be used to effect or implement the reduction,
consolidation, or withdrawal of nuclear forces of the United States that are based in Europe unless—

“(1) the reduction, consolidation, or withdrawal of such nuclear forces is requested by the government of the host nation in the manner provided in the agreement between the United States and the host nation regarding the forces;

“(2) the President certifies that—

“(A) NATO member states have considered the reduction, consolidation, or withdrawal in the High Level Group;

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

“(C) the remaining nuclear forces of the United States that are based in Europe after such reduction, consolidation, or withdrawal would provide a commensurate or better level of assurance and credibility as before such reduction, consolidation, or withdrawal; and

“(D) there has been reciprocal action by the Russian Federation, not including the Russian Federation relocating nuclear forces from one location to another; or
“(3) the reduction, consolidation, or withdrawal of such nuclear forces is specifically authorized by an Act of Congress.

“(d) NOTIFICATION.—Upon any decision to reduce, consolidate, or withdraw the nuclear forces of the United States that are based in Europe, the President shall submit to the appropriate congressional committees a notification containing—

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

“(2) justification for such reduction, consolidation, or withdrawal; and

“(3) an assessment of how NATO member states, in light of such reduction, consolidation, or withdrawal, assess the credibility of the deterrence capability of the United States in support of its commitments undertaken pursuant to article 5 of the North Atlantic Treaty, signed at Washington, District of Columbia, on April 4, 1949, and entered into force on August 24, 1949 (63 Stat. 2241; TIAS 1964).

“(e) NOTICE AND WAIT REQUIREMENT.—The President may not commence a reduction, consolidation, or withdrawal of the nuclear forces of the United States that
are based in Europe for which the certification required by subsection (e)(2) is made until the expiration of a 180-day period beginning on the date on which the President submits the notification under subsection (d) containing the certification.

“(f) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term ‘appropriate congressional committees’ means—

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

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

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

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