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1ST SESSION

S. 1097

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

IN THE SENATE OF THE UNITED STATES

MAY 26, 2011

Mr. KYL (for himself, Mr. SESSIONS, Mr. MCCAIN, Mr. CORNYN, Mr. WICKER, Mr. VITTER, Mr. INHOFE, Mr. CORKER, and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

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

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

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

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

8 (A) B-52H or B-2 bomber aircraft and
 9 nuclear air-launched cruise missiles.

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

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

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

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

4 (3) The term “New START Treaty” means the
5 Treaty between the United States of America and
6 the Russian Federation on Measures for the Further
7 Reduction and Limitation of Strategic Offensive
8 Arms, signed at Prague April 8, 2010, with Pro-
9 tocol, including Annex on Inspection Activities to the
10 Protocol, Annex on Notifications to the Protocol,
11 and Annex on Telemetric Information to the Pro-
12 tocol (Treaty Document 111–5).

13 **SEC. 3. USE OF FUNDS ON THE MODERNIZATION OF NU-**
14 **CLEAR WEAPONS.**

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

16 (1) The President of the United States, in a
17 letter dated December 18, 2010, declared, “I recog-
18 nize that nuclear modernization requires investment
19 for the long-term, in addition to this one-year budget
20 increase. That is my commitment to the Congress
21 that my Administration will pursue these programs
22 and capabilities for as long as I am President. In fu-
23 ture years, we will provide annual updates to the
24 [report required under section 1251 of the National

1 Defense Authorization Act for Fiscal Year 2010
2 (Public Law 111–84; 123 Stat. 2549)].”.

3 (2) Article 5, Section 1 of the New START
4 Treaty declares, “Subject to the provisions of this
5 Treaty, modernization and replacement of strategic
6 offensive arms may be carried out.”.

7 (3) Secretary of Defense Robert Gates declared
8 on October 28, 2008, “To be blunt, there is abso-
9 lutely no way we can maintain a credible deterrent
10 and reduce the number of weapons in our stockpile
11 without either resorting to testing our stockpile or
12 pursuing a modernization program.”.

13 (4) The November 2010 update to the report
14 required under section 1251 of the National Defense
15 Authorization Act for Fiscal Year 2010 (Public Law
16 111–84; 123 Stat. 2549) stated, “Notably, stockpile
17 requirements to fully implement the [Nuclear Pos-
18 ture Review] and the New START Treaty have been
19 refined. . . . Based on this additional work, and the
20 development of new information and insights, the
21 President is prepared to seek additional resources
22 for the Weapons Activities account, over and above
23 the FY 2011 FYNSP, for the FY 2012 budget and
24 for the remainder of the FYNSP period (FY 2013
25 to FY 2016). Specifically, the President plans to re-

1 quest \$7.6 billion for FY 2012 (an increase of \$0.6
2 billion over the planned FY 2012 funding level
3 . . .). Given the extremely tight budget environment
4 facing the Federal Government, these requests to
5 the Congress demonstrate the priority the [Adminis-
6 tration] places on maintaining the safety, security,
7 and effectiveness of the deterrent.”.

8 (5) The Stockpile Stewardship Management
9 Plan for Fiscal Year 2011, dated May 2010, stated,
10 “The Laboratory Directors will be expected to pro-
11 vide findings associated with the full range of [life
12 extension program] approaches, and to make a set
13 of recommendations based solely on their best tech-
14 nical assessments of the ability of each [life exten-
15 sion program] approach to meet critical stockpile
16 management goals (weapons system safety, security,
17 and effectiveness).”.

18 (6) Section 4204 of the Atomic Energy Defense
19 Act (50 U.S.C. 2524) (as amended by section 3113
20 of the National Defense Authorization Act for Fiscal
21 Year 2010 (Public Law 111–84; 123 Stat. 2704))
22 established a stockpile management program to
23 “provide for the effective management of the weap-
24 ons in the nuclear weapons stockpile”.

1 (7) The objectives of the stockpile management
2 program are, first and foremost, to “increase the re-
3 liability, safety, and security of the nuclear weapons
4 stockpile of the United States”, as well as to “fur-
5 ther reduce the likelihood of the resumption of un-
6 derground nuclear weapons testing”, to “achieve re-
7 ductions in the future size of the nuclear weapons
8 stockpile”, and to “reduce the risk of an accidental
9 detonation of an element of the stockpile”.

10 (b) SENSE OF CONGRESS ON LIFE EXTENSION PRO-
11 GRAM DEADLINES.—

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

17 (2) DEADLINES DESCRIBED.—The life exten-
18 sion program deadlines described in this paragraph
19 are the deadlines identified in the November 2010
20 update to the report required under section 1251 of
21 the National Defense Authorization Act for Fiscal
22 Year 2010 (Public Law 111–84; 123 Stat. 2549) as
23 follows:

24 (A) Completion of the W76 build in fiscal
25 year 2018.

1 (B) Completion of the first production unit
2 of the B-61 in fiscal year 2017.

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

5 (D) Beginning of the study of a common
6 warhead for the W78 and the W88 in fiscal
7 year 2012.

8 (E) Beginning of the development of an
9 Arming, Fuzing, and Firing system for the
10 W88 in fiscal year 2012.

11 (3) SENSE OF CONGRESS ON STOCKPILE MAN-
12 AGEMENT PROGRAM.—It is the sense of Congress
13 that—

14 (A) the primary objective of the stockpile
15 management program to increase the reliability,
16 safety, and security of the nuclear weapons
17 stockpile of the United States, as specified in
18 section 4204(a) of the Atomic Energy Defense
19 Act (50 U.S.C. 2524(a)), is of great impor-
20 tance;

21 (B) all mechanisms authorized by section
22 4204 of the Atomic Energy Defense Act for the
23 stockpile management program should be used
24 to find the best means to increase the reli-

1 ability, safety, and security of the nuclear weap-
2 ons stockpile; and

3 (C) section 4204 of the Atomic Energy De-
4 fense Act does not give preference to any one
5 mechanism for increasing the reliability, safety,
6 and security of the nuclear weapons stockpile
7 over any other such mechanism.

8 (e) POLICY.—It is the policy of the United States—

9 (1) to accomplish the modernization and re-
10 placement of the nuclear triad;

11 (2) to sustain a robust stockpile stewardship
12 program and to maintain and modernize the nuclear
13 weapons production capabilities and capacities that
14 will both—

15 (A) ensure the safety, reliability, and per-
16 formance of the nuclear weapons of the United
17 States at the New START Treaty levels;

18 (B) meet requirements for hedging against
19 possible international developments or technical
20 problems, in conformance with the policies of
21 the United States and in support of nuclear de-
22 terrence, extended deterrence, assurance, and
23 defense; and

24 (C) section 4204 of the Atomic Energy De-
25 fense Act does not give preference to any one

1 mechanism for increasing the reliability, safety,
2 and security of the nuclear weapons stockpile
3 over any other such mechanism;

4 (3) to maintain the nuclear weapons labora-
5 tories of the United States and preserve the core nu-
6 clear weapons competencies of such laboratories;

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

18 (5) that if the modernization plan is not funded
19 consistent with the annual report required under
20 such section 495, such failure would jeopardize the
21 supreme interests of the United States and is poten-
22 tial grounds for the withdrawal of the United States
23 from the New START Treaty in accordance with
24 Article XIV of such Treaty.

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

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

10 (a) FINDINGS.—Congress makes the following find-
11 ings:

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

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

21 (3) On March 29, 2011, Assistant to the Presi-
22 dent for National Security Affairs Thomas Donilon
23 stated, “As we implement New START, we’re mak-
24 ing preparations for the next round of nuclear re-
25 ductions. Under the President’s direction, the De-

1 partment of Defense will review our strategic re-
2 quirements and develop options for further reduc-
3 tions in our current nuclear stockpile, which stands
4 at approximately 5,000 warheads, including both de-
5 ployed and reserve warheads. To develop these op-
6 tions for further reductions, we need to consider sev-
7 eral factors, such as potential changes in targeting
8 requirements and alert postures that are required
9 for effective deterrence.”.

10 (b) IMPLEMENTATION OF NEW START TREATY.—

11 (1) LIMITATION.—

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

21 (B) Nothing in subparagraph (A) shall be
22 construed to limit any action (including
23 verification) required by the New START Trea-
24 ty other than retiring any covered nuclear sys-
25 tem of the United States.

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

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

11 (B) with respect to such notice—

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

21 (ii) if the notice describes that such
22 plan is not being carried out, a period of
23 180 days has elapsed following the date on
24 which the President submits to the con-

1 gressional defense committees the report
2 described in clause (i).

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

7 (c) PROHIBITION ON REDUCTION OF STOCKPILE
8 HEDGE.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the Secretary of Defense and the Sec-
11 retary of Energy may not obligate or expend
12 amounts appropriated or otherwise made available to
13 the Department of Defense or the Department of
14 Energy to retire, dismantle, or eliminate, or prepare
15 to retire, dismantle, or eliminate, any nondeployed
16 strategic or non-strategic nuclear weapon until the
17 date that is 90 days after the date on which the Sec-
18 retary of Energy submits to the congressional de-
19 fense committees written certification that—

20 (A) the Chemistry and Metallurgy Re-
21 search Replacement nuclear facility (in this
22 subsection referred to as the “nuclear facility”)
23 and the Uranium Processing Facility (in this
24 subsection referred to as the “processing facil-
25 ity”) are fully operational;

1 (B) the nuclear facility and the Plutonium
 2 Facility—4 are together able to deliver to the
 3 nuclear weapons stockpile not less than a total
 4 of 80 pits per year; and

5 (C) the processing facility is able to deliver
 6 to the nuclear weapons stockpile not less than
 7 80 refurbished or new canned subassemblies per
 8 year.

9 (2) EXCEPTION.—The prohibition under para-
 10 graph (1) does not apply to activities related to sur-
 11 veillance of the nuclear weapons stockpile.

12 (d) PROHIBITION ON UNILATERAL REDUCTION OF
 13 NUCLEAR WEAPONS.—

14 (1) IN GENERAL.—Part I of subtitle A of title
 15 10, United States Code, is amended by adding at
 16 the end the following new chapter:

17 **“CHAPTER 24—NUCLEAR POSTURE AND**
 18 **MISSILE DEFENSE**

“Sec.

“491. Prohibition on unilateral reduction of nuclear weapons.

19 **“§ 491. Prohibition on unilateral reduction of nuclear**
 20 **weapons**

21 “The President may not retire, dismantle, or elimi-
 22 nate, or prepare to retire, dismantle, or eliminate, any nu-
 23 clear weapon of the United States (including such de-
 24 ployed weapons and nondeployed weapons and warheads

1 in the nuclear weapons stockpile) if such action would re-
 2 duce the number of such weapons to a number that is
 3 less than the level described in the New START Treaty
 4 (as defined in section 494(e)) unless such action is re-
 5 quired by a treaty or international agreement specifically
 6 approved with the advice and consent of the Senate pursu-
 7 ant to Article II, section 2, clause 2 of the Constitution.”.

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

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

14 **SEC. 5. NUCLEAR EMPLOYMENT STRATEGY.**

15 (a) FINDINGS.—Congress makes the following find-
 16 ings:

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

1 (2) On March 29, 2011, Assistant to the Presi-
2 dent for National Security Affairs Thomas Donilon
3 stated, “As we implement New START, we’re mak-
4 ing preparations for the next round of nuclear re-
5 ductions. Under the President’s direction, the De-
6 partment of Defense will review our strategic re-
7 quirements and develop options for further reduc-
8 tions in our current nuclear stockpile, which stands
9 at approximately 5,000 warheads, including both de-
10 ployed and reserve warheads. To develop these op-
11 tions for further reductions, we need to consider sev-
12 eral factors, such as potential changes in targeting
13 requirements and alert postures that are required
14 for effective deterrence.”.

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

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

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

21 “(1) the President submits to the congressional
22 defense committees a report on such proposed
23 changes, including—

24 “(A) the implication of such changes on
25 the flexibility and resilience of the strategic

1 forces of the United States and the ability of
2 such forces to support the goals of the United
3 States with respect to nuclear deterrence, ex-
4 tended deterrence, assurances for allies, dissua-
5 sion of potential peer competitors, and defense;
6 and

7 “(B) certification that such proposed
8 changes do not require a change in targeting
9 strategy from counterforce targeting to counter-
10 value targeting, nor do they result in the
11 United States abandoning its ‘second-to-none’
12 nuclear forces strategy; and

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

16 (c) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of such chapter is amended by inserting
18 after the item relating to section 491 the following new
19 item:

“492. Nuclear employment strategy.”.

20 **SEC. 6. FORCE ANALYSIS AND ASSESSMENT OF THE CAPA-**
21 **BILITIES OF THE NUCLEAR FORCES OF THE**
22 **UNITED STATES.**

23 (a) IN GENERAL.—Not later than March 1, 2012, the
24 Secretary of Defense shall conduct a force analysis and
25 net assessment of the current and proposed nuclear forces

1 of the United States to determine whether such forces are
2 capable of meeting the nuclear deterrence, extended deter-
3 rence, assurance, and defense objectives of the United
4 States in the context of the current and anticipated nu-
5 clear and non-nuclear forces of the Russian Federation
6 and other countries.

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

9 (1) Specific metrics to define and measure the
10 strategic sufficiency of the nuclear forces of the
11 United States and the sufficiency of forces necessary
12 to meet the nuclear deterrence, extended deterrence,
13 assurance, and defense requirements of the United
14 States.

15 (2) An identification and assessment of the nu-
16 clear strategies of the United States, and the role of
17 nuclear weapons in those strategies, as of the date
18 of the force analysis and net assessment, including—

19 (A) how the United States is prepared to
20 limit damage to the United States and its allies
21 if deterrence fails; and

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

24 (3) An identification of the nuclear force pos-
25 ture of the United States required to fulfill the nu-

1 clear deterrence, extended deterrence, assurance,
2 and defense strategies of the United States, includ-
3 ing the planning assumptions on which such posture
4 is based.

5 (4) Force-on-force exchange modeling analyses
6 to determine the vulnerability, survivability, and ef-
7 fectiveness of current and proposed nuclear capabili-
8 ties of the United States in various scenarios (in-
9 cluding a surprise attack and an electromagnetic
10 pulse attack by potential adversaries, including Rus-
11 sia, China, North Korea, Iran, or terrorists armed
12 with nuclear weapons) and taking into account var-
13 ious nuclear postures (including day-to-day alert and
14 generated alert).

15 (5) An assessment of the implications of dis-
16 parities between the strategic and non-strategic nu-
17 clear weapons of the United States and the strategic
18 and non-strategic nuclear weapons of other countries
19 with respect to deterrence, extended deterrence, as-
20 surance, and defense.

21 (6) An assessment of the implications that var-
22 ious force levels of the nuclear forces of the United
23 States have on nuclear proliferation, and the effect
24 that such lower force levels have on the motivation
25 or inclination of other countries to increase their nu-

1 clear capabilities, and the contingency plans of the
2 United States to respond to such an increase.

3 (7) An assessment of the effect of the conven-
4 tional prompt global strike capabilities of the United
5 States and other countries on the ability of the
6 United States to meet its deterrence, extended deter-
7 rence, assurance, and defense requirements.

8 (8) An assessment of the effect of the ballistic
9 missile defense capabilities of the United States and
10 other countries on the strategic balance and on the
11 nuclear deterrence, extended deterrence, assurance,
12 and defense strategies of the United States.

13 (9) An assessment of the flexibility and resil-
14 ience of the nuclear forces of the United States, in-
15 cluding the potential to upload nondeployed war-
16 heads and to modify weapons and warheads to meet
17 unexpected challenges.

18 (10) Such other matters as the Secretary of
19 Defense considers appropriate regarding the capa-
20 bilities of the nuclear forces of the United States.

21 (c) PARTICIPATION OF OTHER DEPARTMENTS AND
22 AGENCIES.—In conducting the force analysis and net as-
23 sessment under subsection (a), the Secretary of Defense
24 shall provide for the appropriate participation of the fol-
25 lowing:

- 1 (1) The Director of National Intelligence.
- 2 (2) The Joint Staff.
- 3 (3) The Missile Defense Agency.
- 4 (4) The United States Strategic Command.
- 5 (5) Such other elements or components of the
6 Department of Defense as the Secretary of Defense
7 considers appropriate.
- 8 (6) Such other departments and agencies of the
9 Federal Government as the Secretary of Defense
10 and the heads of such departments and agencies
11 jointly consider appropriate.
- 12 (7) The national security laboratories (as de-
13 fined in section 3281 of the National Nuclear Secu-
14 rity Administration Act (50 U.S.C. 2471)).
- 15 (d) REPORT.—
- 16 (1) REPORT REQUIRED.—Not later than Sep-
17 tember 1, 2012, the Secretary of Defense shall sub-
18 mit to the appropriate committees of Congress a re-
19 port on the force analysis and net assessment.
- 20 (2) FORM.—The report under paragraph (1)
21 shall be submitted in unclassified form (including as
22 much detail as possible), but may include a classified
23 annex.
- 24 (e) INDEPENDENT REVIEW.—

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

6 (2) PARTICIPANTS.—The review under para-
7 graph (1) shall also include the participation of the
8 following:

9 (A) Such additional individuals as the Sec-
10 retary considers appropriate with expertise in
11 matters relating to—

12 (i) force analysis and net assessment;

13 and

14 (ii) the relationship between the force
15 posture of the United States and the nu-
16 clear deterrence, extended deterrence, as-
17 surance, and defense goals of the United
18 States.

19 (B) A separate individual (who may be a
20 member of Congress) appointed by each of the
21 following:

22 (i) The Chairman of the Committee
23 on Armed Services of the Senate.

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

1 (iii) The Chairman of the Committee
2 on Foreign Relations of the Senate.

3 (iv) The Ranking Member of the
4 Committee on Foreign Relations of the
5 Senate.

6 (v) The majority leader of the Senate.

7 (vi) The minority leader of the Sen-
8 ate.

9 (vii) The Chairman of the Committee
10 on Armed Services of the House of Rep-
11 resentatives.

12 (viii) The Ranking Member of the
13 Committee on Armed Services of the
14 House of Representatives.

15 (ix) The Chairman of the Committee
16 on Foreign Affairs of the House of Rep-
17 resentatives.

18 (x) The Ranking Member of the Com-
19 mittee on Foreign Affairs of the House of
20 Representatives.

21 (xi) The Speaker of the House of
22 Representatives.

23 (xii) The minority leader of the House
24 of Representatives.

1 (3) REPORT.—Not later than 90 days after the
2 date of the submittal to Congress of the report
3 under subsection (d)(1), the federally funded re-
4 search and development center conducting a review
5 under paragraph (1) shall submit to the appropriate
6 committees of Congress a report on the results of
7 the review.

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

11 (1) the Committee on Armed Services and the
12 Select Committee on Intelligence of the Senate; and

13 (2) the Committee on Armed Services and the
14 Permanent Select Committee on Intelligence of the
15 House of Representatives.

16 **SEC. 7. ANNUAL ASSESSMENT AND REPORT ON THE DELIV-**
17 **ERY PLATFORMS FOR NUCLEAR WEAPONS**
18 **AND THE NUCLEAR COMMAND AND CONTROL**
19 **SYSTEM.**

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

1 **“§ 493. Annual assessment and report on the delivery**
2 **platforms for nuclear weapons and the**
3 **nuclear command and control system**

4 “(a) ANNUAL ASSESSMENTS.—(1) Each covered offi-
5 cial shall annually assess the safety, security, reliability,
6 sustainability, performance, and military effectiveness of
7 the systems described in paragraph (2) for which such of-
8 ficial has responsibility.

9 “(2) The systems described in this paragraph are the
10 following:

11 “(A) Each type of delivery platform for nuclear
12 weapons.

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

14 “(b) ANNUAL REPORT.—(1) Not later than Decem-
15 ber 1 of each year, beginning in 2011, each covered official
16 shall submit to the Secretary of Defense and the Nuclear
17 Weapons Council established by section 179 of this title
18 a report on the assessments conducted under subsection
19 (a).

20 “(2) Each report under paragraph (1) shall include
21 the following:

22 “(A) The results of the assessment.

23 “(B) An identification and discussion of any ca-
24 pability gaps or shortfalls with respect to the sys-
25 tems described in subsection (a)(2) covered under
26 the assessment.

1 “(C) An identification and discussion of any
2 risks with respect to meeting mission or capability
3 requirements.

4 “(D) In the case of an assessment by the Com-
5 mander of the United States Strategic Command, if
6 the Commander identifies any deficiency with re-
7 spect to a nuclear weapons delivery platform covered
8 under the assessment, a discussion of the relative
9 merits of any other nuclear weapons delivery plat-
10 form type or compensatory measure that would ac-
11 complish the mission of such nuclear weapons deliv-
12 ery platform.

13 “(E) An identification and discussion of any
14 matter having an adverse effect on the capability of
15 the covered official to accurately determine the mat-
16 ters covered by the assessment.

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

21 “(A) each report under subsection (b) sub-
22 mitted during the previous year, as originally sub-
23 mitted to the Secretary;

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

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

6 “(D) any other information that the Secretary
7 considers appropriate.

8 “(2) Not later than March 15 of each year, beginning
9 in 2012, the President shall transmit to the congressional
10 defense committees the report submitted to the President
11 under paragraph (1), including any comments the Presi-
12 dent considers appropriate.

13 “(3) Each report under this subsection may be in
14 classified form if the Secretary of Defense determines it
15 necessary.

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

18 “(1) the Commander of the United States Stra-
19 tegic Command;

20 “(2) the Director of the Strategic Systems Pro-
21 gram of the Navy; and

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

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of such chapter is amended by inserting

1 after the item relating to section 492 the following new
2 item:

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

3 **SEC. 8. MISSILE DEFENSE.**

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

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

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

1 (3) “Regardless of Russia’s actions in this re-
2 gard, as long as I am President, and as long as the
3 Congress provides the necessary funding, the United
4 States will continue to develop and deploy effective
5 missile defenses to protect the United States, our
6 deployed forces, and our allies and partners. My Ad-
7 ministration plans to deploy all four phases of the
8 [European phased, adaptive approach to missile de-
9 fense].”.

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

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

14 (2) that any further limitations on the missile
15 defense capabilities of the United States are not in
16 the national security interests of the United States;

17 (3) that policies based on mutual assured de-
18 struction or intentional vulnerability to strategic at-
19 tack can be contrary to the safety and security of
20 both the United States and the Russian Federation,
21 and both countries share a common interest in de-
22 fensive capabilities that help both to move coopera-
23 tively as soon as possible away from a strategic rela-
24 tionship based on mutual vulnerability;

1 (4) that the United States will welcome steps by
2 Russia to also adopt a fundamentally defensive stra-
3 tegic posture that no longer views robust strategic
4 defensive capabilities as undermining the overall
5 strategic balance;

6 (5) to improve the strategic defensive capabili-
7 ties of the United States both quantitatively and
8 qualitatively during the period that the New START
9 treaty is in effect, and such improvements are con-
10 sistent with the Treaty;

11 (6) that no future agreement with Russia on
12 cooperative missile defense, non-strategic nuclear
13 weapons, further strategic weapons reductions, or
14 any other matter shall include any restrictions on
15 the missile defense options of the United States in
16 Europe or elsewhere; and

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

21 (c) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that, given congressional concern about missile de-
23 fense issues, the President should offer both Houses of
24 Congress regular briefings, not less than twice each year,
25 to the Committees on Foreign Relations and Armed Serv-

1 ices of the Senate, and the Committees on Foreign Affairs
2 and Armed Services of the House, on all missile defense
3 issues related to the New START Treaty and on the
4 progress of United States-Russia dialogue and cooperation
5 regarding missile defense.

6 (d) LIMITATIONS ON MISSILE DEFENSE.—

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

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

12 “(a) IN GENERAL.—Any agreement with a country
13 or international organization or amendment to the New
14 START Treaty (including an agreement made by the Bi-
15 lateral Consultative Commission established by the New
16 START Treaty) concerning the missile defense capabili-
17 ties of the United States shall not be binding on the
18 United States, and shall not enter into force with respect
19 to the United States, unless after the date of the enact-
20 ment of this section, such agreement or amendment is spe-
21 cifically approved with the advice and consent of the Sen-
22 ate pursuant to Article II, section 2, clause 2 of the Con-
23 stitution.

24 “(b) ANNUAL NOTIFICATION.—Not later than Janu-
25 ary 31 of each year, beginning in 2012, the President shall

1 submit to the congressional defense committees a notifica-
2 tion of—

3 “(1) whether the Russian Federation has recog-
4 nized during the previous year the sovereign right of
5 the United States to pursue quantitative and quali-
6 tative improvements in missile defense capabilities;
7 and

8 “(2) whether during any treaty negotiations or
9 other Government-to-Government contacts between
10 the United States and the Russian Federation (in-
11 cluding under the auspices of the Bilateral Consult-
12 ative Commission established by the New START
13 Treaty) during the previous year a representative of
14 the Russian Federation suggested that a treaty or
15 other international agreement include, with respect
16 to the United States—

17 “(A) restricting missile defense capabili-
18 ties, military capabilities in space, or conven-
19 tional prompt global strike capabilities; or

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

22 “(c) NEW START TREATY DEFINED.—The term
23 ‘New START Treaty’ means the Treaty between the
24 United States of America and the Russian Federation on
25 Measures for the Further Reduction and Limitation of

1 Strategic Offensive Arms, signed at Prague April 8, 2010,
2 with Protocol, including Annex on Inspection Activities to
3 the Protocol, Annex on Notifications to the Protocol, and
4 Annex on Telemetric Information to the Protocol (Treaty
5 Document 111-5).”.

6 (2) CLERICAL AMENDMENT.—The table of sec-
7 tions at the beginning of such chapter is amended
8 by inserting after the item relating to section 493
9 the following new item:

“494. Certain limitations on missile defense.”.

10 (e) RESTRICTION OF FUNDS FOR CERTAIN TREATY
11 NEGOTIATIONS.—

12 (1) RESTRICTION.—No funds available to the
13 Department of State or any other Federal depart-
14 ment or agency may be obligated or expended during
15 fiscal year 2012 or any fiscal year thereafter for
16 travel expenses related to treaty negotiations con-
17 cerning the possible reduction of covered nuclear
18 systems of the United States until the date on which
19 the certification under paragraph (2) is transmitted
20 to Congress.

21 (2) CERTIFICATION.—Not later than 30 days
22 after the date of the enactment of this Act, the
23 President shall transmit to Congress written notifi-
24 cation that negotiations described in paragraph (1)

1 will not include restricting the missile defense capa-
2 bilities of the United States.

3 **SEC. 9. ANNUAL REPORT ON THE PLAN FOR THE MOD-**
4 **ERNIZATION OF THE NUCLEAR WEAPONS**
5 **STOCKPILE, NUCLEAR WEAPONS COMPLEX,**
6 **AND DELIVERY PLATFORMS.**

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

10 **“§ 495. Annual report on the plan for the moderniza-**
11 **tion of the nuclear weapons stockpile, nu-**
12 **clear weapons complex, and delivery**
13 **platforms**

14 “(a) REPORT ON THE PLAN FOR THE NUCLEAR
15 WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX,
16 AND DELIVERY PLATFORMS.—(1) Together with the
17 budget of the President submitted to Congress under sec-
18 tion 1105(a) of title 31, United States Code, the Presi-
19 dent, in consultation with the Secretary of Defense and
20 the Secretary of Energy, shall transmit to the congres-
21 sional defense committees, the Committee on Foreign Re-
22 lations of the Senate, and the Committee on Foreign Af-
23 fairs of the House of Representatives a detailed report on
24 the plan to—

1 “(A) enhance the safety, security, and reliability
2 of the nuclear weapons stockpile of the United
3 States;

4 “(B) modernize the nuclear weapons complex;

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

7 “(D) retire, dismantle, or eliminate any covered
8 nuclear system.

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

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

14 “(B) A detailed description of the plan to mod-
15 ernize the nuclear weapons complex, including im-
16 proving the safety of facilities, modernizing the in-
17 frastructure, and maintaining the key capabilities
18 and competencies of the nuclear weapons workforce,
19 including designers and technicians.

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

23 “(D) A detailed estimate of budget require-
24 ments, including the costs associated with the plans

1 outlined under subparagraphs (A) through (C), over
2 the 10-year period following the date of the report.

3 “(E) A detailed description of the steps taken
4 to implement the plan submitted in the previous
5 year.

6 “(b) ADVICE OF DIRECTORS OF NUCLEAR FACILI-
7 TIES AND LABORATORIES.—Together with the budget of
8 the President submitted to Congress under section
9 1105(a) of title 31, United States Code, during each fiscal
10 year in which a report is transmitted under subsection (a),
11 the directors of the nuclear facilities and laboratories shall
12 each submit to the congressional defense committees, the
13 Committee on Foreign Relations of the Senate, the Com-
14 mittee on Foreign Affairs of the House of Representatives,
15 the Secretary of Defense, and the Secretary of Energy an
16 independent report on the implementation of and the
17 funding for the plans outlined under subparagraphs (A)
18 and (B) of subsection (a)(2).

19 “(c) FORM.—Each report required by this section
20 shall be submitted in unclassified form (including as much
21 detail as possible), but may include a classified annex.

22 “(d) DEFINITIONS.—In this section:

23 “(1) The term ‘covered nuclear systems’ means
24 the following:

1 “(A) B–52H or B–2 bomber aircraft and
2 nuclear air-launched cruise missiles.

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

6 “(C) Minuteman III intercontinental bal-
7 listic missiles and associated silos.

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

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

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

16 “(A) Los Alamos National Laboratory, Los
17 Alamos, New Mexico.

18 “(B) Sandia National Laboratories, Albu-
19 querque, New Mexico.

20 “(C) Lawrence Livermore National Lab-
21 oratory, Livermore, California.

22 “(D) The Kansas City Plant, Kansas City,
23 Missouri.

24 “(E) The Nevada National Security Site,
25 Nevada.

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

2 “(G) The Savannah River Site, Aiken,
3 South Carolina.

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

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of such chapter is amended by inserting
8 after the item relating to section 494 the following new
9 item:

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

10 **SEC. 10. CHEMISTRY AND METALLURGY RESEARCH RE-**
11 **PLACEMENT NUCLEAR FACILITY AND URA-**
12 **NIUM PROCESSING FACILITY.**

13 (a) FINDINGS.—Congress makes the following find-
14 ings:

15 (1) The Stockpile Stewardship Management
16 Plan for Fiscal Year 2011, dated May 2010, stated
17 that the Chemistry and Metallurgy Research Re-
18 placement building and the Uranium Processing Fa-
19 cility are “the highest physical infrastructure prior-
20 ities” for the nuclear enterprise.

21 (2) The November 2010 update to the report
22 required under section 1251 of the National Defense
23 Authorization Act for Fiscal Year 2010 (Public Law
24 111-84; 123 Stat. 2549) stated, “The Administra-

1 tion is committed to fully fund the construction of
2 the Uranium Processing Facility (UPF) and the
3 Chemistry and Metallurgy Research Replacement
4 (CMRR).”.

5 (3) A Department of Energy briefing book re-
6 garding the fiscal year 2012 budget stated, with re-
7 spect to the Chemistry and Metallurgy Research Re-
8 placement nuclear facility, “The increased funding
9 level in the FY 2012–FY 2016 period is needed to
10 support the required schedule of construction com-
11 pletion in FY 2020 and a ramp-up to full operations
12 by FY 2023.”.

13 (4) The briefing book also stated, with respect
14 to the Uranium Processing Facility, “The increased
15 funding level in the FY 2012–FY 2016 period is
16 needed to support the NNSA’s priority to phase out
17 operations in Building 9212 and move required
18 chemical processing activities from Building 9212
19 into UPF in FY 2020, with a ramp-up to full oper-
20 ations in UPF by FY 2024.”.

21 (b) CMRR AND UPF.—Of amounts authorized to be
22 appropriated for weapons activities of the National Nu-
23 clear Security Administration, the Secretary of Energy
24 shall—

1 (1) accelerate, to the extent possible, the design
2 and engineering phase of the Chemistry and Metal-
3 lurgy Research Replacement nuclear facility (in this
4 section referred to as the “nuclear facility”) and the
5 Uranium Processing Facility (in this section referred
6 to as the “processing facility”) in order for—

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

9 (B) both the nuclear facility and the proc-
10 essing facility to begin nuclear operations by
11 not later than 2020; and

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

15 (2) together with the budget of the President
16 submitted to Congress under section 1105(a) of title
17 31, United States Code, for fiscal years 2013
18 through 2024, submit to the congressional defense
19 committees a report including—

20 (A) certification of the acceleration de-
21 scribed in paragraph (1); and

22 (B) identification of the funding amounts
23 necessary, including on a multiyear basis as ap-
24 propriate, for the nuclear facility and the proc-

1 essing facility upon completion of the design
2 and engineering phase of such facilities.

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

4 It is the policy of the United States that convention-
5 ally armed, strategic-range weapons systems not co-lo-
6 cated with nuclear armed systems do not affect strategic
7 stability between the United States and the Russian Fed-
8 eration.

9 **SEC. 12. NON-STRATEGIC NUCLEAR WEAPON REDUCTIONS**
10 **AND EXTENDED DETERRENCE POLICY.**

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

13 (1) to pursue negotiations with the Russian
14 Federation aimed at the reduction of deployed and
15 non-deployed non-strategic nuclear forces of the
16 Russian Federation;

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

20 (3) that any geographical relocation or storage
21 of non-strategic nuclear weapons by Russia does not
22 constitute a reduction or elimination of such weap-
23 ons.

1 (b) POLICY ON EXTENDED DETERRENCE COMMIT-
2 MENT TO EUROPE.—It is the policy of the United States
3 that—

4 (1) it maintains its commitment to extended de-
5 terrence, specifically the nuclear alliance of the
6 North Atlantic Treaty Organization, as an impor-
7 tant component of ensuring and linking the national
8 security interests of the United States and the secu-
9 rity of its European allies;

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

13 (3) the presence of nuclear weapons of the
14 United States in Europe—combined with NATO’s
15 unique nuclear sharing arrangements under which
16 non-nuclear members participate in nuclear planning
17 and possess specially configured aircraft capable of
18 delivering nuclear weapons—contributes to the cohe-
19 sion of NATO and provides reassurance to allies and
20 partners who feel exposed to regional threats.

21 (c) LIMITATION ON REDUCTION, CONSOLIDATION, OR
22 WITHDRAWAL OF NUCLEAR FORCES BASED IN EU-
23 ROPE.—In light of the policy expressed in subsections (a)
24 and (b), no action may be taken to effect or implement
25 the reduction, consolidation, or withdrawal of nuclear

1 forces of the United States that are based in Europe un-
2 less—

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; or

8 (2) the President certifies that—

9 (A) NATO member states have considered
10 the reduction, consolidation, or withdrawal in
11 the High Level Group and NATO has decided
12 to support such reduction, consolidation, or
13 withdrawal; and

14 (B) each NATO member state has sepa-
15 rately concurred that the remaining nuclear
16 forces of the United States that are based in
17 Europe after such reduction, consolidation, or
18 withdrawal would provide a commensurate or
19 better level of assurance and credibility as be-
20 fore such reduction, consolidation, or with-
21 drawal.

22 (d) NOTIFICATION.—Upon any decision to reduce,
23 consolidate, or withdraw the nuclear forces of the United
24 States that are based in Europe, the President shall sub-

1 mit to the Committees on Armed Services of the Senate
2 and House of Representatives a notification containing—

3 (1) the certification required by subsection
4 (c)(2);

5 (2) justification for such reduction, consolida-
6 tion, or withdrawal; and

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

16 (e) NOTICE AND WAIT REQUIREMENT.—The Presi-
17 dent may not commence a reduction, consolidation, or
18 withdrawal of the nuclear forces of the United States that
19 are based in Europe for which the certification required
20 by subsection (c)(2) is made until the expiration of a 180-
21 day period beginning on the date on which the President
22 submits the report under subsection (d) containing the
23 certification.

○