

**H.R. 4310—FY13 NATIONAL DEFENSE
AUTHORIZATION BILL**

SUBCOMMITTEE ON STRATEGIC FORCES

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

LEGISLATIVE PROVISIONS

SUBTITLE D—AIR FORCE PROGRAMS

Section 134—Procurement of Space Based Infrared Systems

This section would authorize the Secretary of the Air Force to enter into a fixed price contract to procure two Space Based Infrared System (SBIRS) satellites, authorize incremental funding of the two SBIRS satellites over a period not to exceed 6 years, and establish a limitation on the total funds to be obligated and expended for the procurement. This section would also require the Secretary of the Air Force to submit a report to the congressional defense committees on contract details, cost savings, and plans for reinvesting the cost savings into capability improvements for future blocks of SBIRS satellites.

The Air Force proposes to procure two SBIRS satellites over 6 years using advanced appropriations authority as part of its Efficient Space Procurement (ESP), formerly Evolutionary Acquisition for Space Efficiency, approach to space acquisition. The Air Force believes a block buy of two satellites can drive down costs, improve stability in the space industrial base, and allow for investments in technology that will lower risk for future programs. However, such an approach, if fully funded in a single fiscal year, would consume a large portion of the overall space budget and negatively impact other mission-critical programs.

While the committee supports the objectives of ESP, it has reservations about its implementation. The committee does not support the request for advanced appropriations authority and notes that such authority has not been provided to the Department in the past and would limit the oversight ability of future Congresses. Therefore, the committee recommends incremental funding authority over a period not to exceed 6 years for the procurement of the two SBIRS satellites.

The committee expects the Air Force to realize substantial savings from the ESP block buy approach, enabled by a fixed-price contract and fixed requirements. The committee also expects the Air Force to reinvest any savings into a spacecraft

modernization initiative, where research and development activities are competitively awarded and new technologies are matured for insertion into future blocks of SBIRS satellites or other space-based infrared sensors. Further, the committee believes that the ESP approach must be viewed as a longer-term strategy for space acquisition to fully realize the benefits of the spacecraft modernization initiative and to provide longer-term stability in the industrial base.

The committee discourages the use of advanced appropriations in future budget requests for space programs.

Section 137—Limitation on Availability of Funds for the Evolved Expendable Launch Vehicle Program

This section would express the sense of Congress that assured access to space remains critical to national security, and that the United States Air Force plan, starting in fiscal year 2013, to commit to an annual production rate of launch vehicle booster cores will maintain mission assurance, stabilize the industrial base, reduce costs, and provide opportunities for competition.

The committee notes that the cost of space launch has increased significantly and it believes that economic order quantity purchases and opportunities for competition will help secure the most cost-effective high mission assurance space launch capability for the taxpayer. The committee notes that the Air Force's detailed acquisition strategy was not finalized at the time of publication. The committee expects this acquisition strategy will adequately balance mission assurance, cost savings, and opportunities for certified new entrants to compete.

This section would limit 10 percent of the obligation or expenditure of funds authorized to be appropriated or otherwise made available for fiscal year 2013 for the evolved expendable launch vehicle program until the Secretary of the Air Force submits a report describing the details of the acquisition approach. The report should include the anticipated savings, the planned number of launch vehicle booster cores to be procured, the number of years that the contract will last, an assessment of when new entrants will be certified to compete for evolved expendable launch vehicle class launches, the projected launch manifest with possible opportunities for new entrants to compete, and any other relevant analysis used to inform the acquisition strategy. The Secretary of the Air Force should also provide written certification that the strategy maintains assured access to space, achieves substantial cost savings, and provides opportunities for competition.

The committee also directs the Comptroller General of the United States to review the final acquisition plan and submit to the congressional defense committees its findings within 30 days after the plan is submitted to the congressional defense committees. These findings may be communicated to the defense committees in the form of a briefing.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

LEGISLATIVE PROVISIONS

SUBTITLE C—MISSILE DEFENSE PROGRAMS

Section 221—Procurement of AN/TPY-2 Radars

This section would require that the Secretary of Defense acquire two additional AN/TPY-2 radar radars, one of which is requested in the fiscal year 2013 budget request and one additional radar in fiscal year 2013. The committee is aware there are significant budget efficiencies to procuring two radars as opposed to one. Therefore, the committee recommend the full amount of the budget request of \$217.2 million in fiscal year 2013 for PE 28866C, Procurement, Defense Wide, Missile Defense Agency, and it recommends an additional \$170.0 million for the procurement of the second radar in fiscal year 2013. The committee is concerned that the fiscal year 2013 budget submission and the associated Future Years Defense Program recommends reducing the acquisition of the AN/TPY-2 radar by 6 units to only 11 radar units.

The committee is not aware of any decrease in combatant commander requirements for these radars, and, in fact, it is concerned that this reduction in acquisition may force combatant commanders to take undesirable risks in trading off deployments of these radars, which are key to regional and homeland missile defense. The committee is concerned that the Department and the Missile Defense Agency (MDA) is relying too heavily on the MDA's Precision Tracking Space System concept, a concept which the committee expresses its concerns elsewhere in this report.

The committee also believes that it may be possible to better utilize the current TPY-2 system. To that end, this section would require the Secretary of Defense to conduct a study the utility, costs, and risks of mounting the TPY-2 radar on a rotational table allowing for it to rapidly change direction of the radar array.

Section 222—Development of Advanced Kill Vehicle

The section would require that the Director, Missile Defense Agency submit a plan within 180 days after the date of the enactment of the Act to ensure that the kill vehicle for the Next Generation Aegis Missile can be adapted to also serve as an improved kill vehicle for the Ground-based Midcourse Defense System. The committee also believes that for this purpose, the Director should provide a description of the technology of and concept behind applying the former Multiple Kill Vehicle proposal to the Next Generation Kill Vehicle, which was terminated in the budget request for fiscal year 2010.

The committee believes this plan is consistent with the recommendation of the National Academies' Assessment of Concepts and Systems for U.S. Boost-Phase Missile Defense in Comparison to Other Alternatives, which was conducted pursuant to the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417).

Section 223—Missile Defense Site on the East Coast

This section would require the Secretary of Defense to conduct an environmental impact statement by December 31, 2013, on possible locations on the East Coast of the United States for the deployment of a missile defense site.

This section would also require the Director, Missile Defense Agency to develop a plan for the deployment of an East Coast site to be operational not later than the end of 2015; the plan would evaluate the use of two-stage and three-stage ground-based interceptors, as well as the SM-3 block IA, block IB, and later blocks of the SM-3 missile. This section would require the plan to be included in the fiscal year 2014 budget submission, but it would also authorize \$100.0 million in PE 63882C in fiscal year 2013 to be available 30 days after the plan is presented to the congressional defense committees.

The committee is aware that a cost effective missile defense site located on the East Coast of the United States could have advantages for the defense of the United States from ballistic missiles launched from the Middle East. The committee is also aware that several reviews, including studies by the Commander, U.S. Northern Command in 2007-08 (which do not reflect current command recommendations in view of the 2010 Ballistic Missile Defense Review), the Institute for Defense Analyses, and the National Academies have all examined the potential contribution of an East Coast missile defense site, and certain of these studies have recommended that work begin on the development and deployment of such a site.

The committee encourages the Department to provide to the defense committees an interim analysis on feasibility and cost no later than February 1, 2013.

Section 224—Ground-based Midcourse Defense System

The section would authorize a total of \$1.26 billion for PE 63882C for fiscal year 2013. Some of these funds are intended by the committee for the development and deployment of an East Coast Site, which is addressed in another part of this title.

This section would require the Director of the Missile Defense Agency to begin the upgrade of the six silos in Missile Field 1, which the fiscal year 2013 budget request recommends be shut down and moved to a near-mothball status, and complete it so that it is in operationally ready status within 3 years; this recommendation is consistent with the Administration's policy to be "well hedged" against the possibility that new threats may emerge. This section would also require the funds provided in this section be spent to complete the refurbishment of the CE1 GMD interceptor fleet to improve reliability.

Section 225—Ground-Based Midcourse Defense Interceptor Test

The section would require the Director, Missile Defense Agency (MDA) to undertake an intercept test, using an intercontinental ballistic missile (ICBM) class target, of the ground-based midcourse defense system (GMD) using a CE1 interceptor, which has been successfully tested three out of three times, though not against an intercontinental ballistic missile target, by the end of calendar year 2013. The committee is concerned that under current MDA plans, the GMD system won't be tested against an ICBM until the fourth quarter of 2015. The committee believes that the pace of the growth of ICBM threats to the United States requires the GMD system be tested sooner than current MDA plans.

Section 226—Deployment of SM-3 IIB Interceptors on Land and Sea

This section would express the sense of the Congress that the Standard Missile 3 (SM-3) IIB missile defense interceptors should be deployed at initial deployment, currently planned for 2020, in a land-based and sea-based mode. This provision would also require the Secretary of Defense to provide a report within 180 days after the date of the enactment of this Act on the implications for the force structure of the Navy if the SM-3 IIB cannot fit in the standard Vertical Launching System configuration for the Aegis BMD system, including the effect on Navy ship deployments, cost, and overall magazine depth to respond to missile raids. This section would also require that the report include an explanation if the interceptors cannot be deployed in a sea-based mode at initial deployment, including cost and force structure requirements, related to the use of the IIB missile for the defense of the United States from threats originating in the Pacific region.

Section 227—Iron Dome Short-Range Rocket Defense Program

This section would authorize \$680.0 million for the Iron Dome system in fiscal years 2012-15 in PE 63913C. This section would also require the Director, Missile Defense Agency to establish within MDA a program office for cooperative missile defense efforts on the Iron Dome system to ensure long-term cooperation on this program.

The committee is aware that National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383) included \$205.0 million for the Iron Dome short-range rocket defense system for the State of Israel. The committee notes that the Iron Dome system has proven very effective at defeating threat rockets launched at protected targets. The committee also notes that if the full \$680.0 million is used on the program, the total U.S. taxpayer investment in this system will amount to nearly \$900.0 million since fiscal year 2011, yet the United States has no rights to the technology involved. The committee believes the Director should ensure, prior to disbursing additional funds on Iron Dome, that the United States has appropriate rights to this technology, as is consistent with prior U.S.-Israeli missile defense cooperation. The committee also believes that the Director should explore any opportunity to enter into co-production of the Iron Dome system with Israel, in light of the significant U.S. investment in this system.

Section 228—Sea-Based X-Band Radar

This section would require the Director, Missile Defense Agency to ensure that the sea-based X-band (SBX) radar is maintained in a status such that the radar may be deployed in less than 14 days and for at least 60 days each year.

Section 229—Prohibition on the Use of Funds for the MEADS Program

This section would prohibit the Department from obligating any funding on the Medium Extended Air Defense System (MEADS) program.

The committee notes that in the conference report (H. Rept. 112-329) accompanying the National Defense Authorization Act for Fiscal Year 2012, the conferees limited the availability of more than 25 percent of fiscal year 2012 funds for MEADS until the Secretary of Defense submits a plan to use such funds as final obligations under the MEADS program for either: (1) implementing a restructured MEADS program of reduced scope; or (2) contract termination liability costs with respect to the contracts covering the program. The committee believes there should have been no confusion regarding the meaning of "final obligations."

The committee further finds that the Department of Defense has not yet submitted the reports required by section 235 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81). The committee believes this report, when submitted, will offer useful direction for the Patriot Improvement Program, which is referenced elsewhere in this report.

Additionally, the Government Accountability Office has reported to the Senate Committee on Armed Services and the House Committee on Armed Services in its recent selected acquisition report that there may in fact be continuing MEADS expenses for the United States for several years beyond fiscal year 2013, which would be inconsistent with budget briefings provided to the committee by the Department.

The committee understands that the Department of Defense is now engaging, at the senior most levels, with representatives of Germany and Italy concerning this program. The committee believes such senior level attention earlier in the course of this program might have saved the taxpayers significant expenditure of dollars.

The committee further understands from the Department that the Federal Republic of Germany and the Italian Republic have made clear they will not work with the United States to further adjust the terms of the MEADS program, believing they have a deal with the United States and having made their required contributions to the program. The committee urges the Department to remind the representatives of Germany and Italy that only Congress can commit the United States to the expenditure of taxpayer funds.

Section 230—Limitation on Availability of Funds for Phased, Adaptive Approach to Missile Defense in Europe

This section would require the Secretary of Defense and the Secretary of State to jointly submit a plan to the congressional defense committees on cost-sharing with the North Atlantic Treaty Organization (NATO) the expenses of the fixed European Phased Adaptive Approach (EPAA) assets, including the Aegis Ashore sites and the forward-deployed AN/TPY-2 radar. The committee believes other expenses should also be included, though it notes it has not received a complete explanation from the Department of all of the U.S. capabilities that will be available to support the EPAA. This section would also require the Secretary of Defense to submit a NATO pre-financing request for the expenses of this missile defense equipment, as is required for EPAA military construction expenses elsewhere in this bill. This section would limit the obligation or expenditure of 25 percent of the costs of the specified EPAA expenses for missile defense equipment until NATO responds to the U.S. pre-financing request. Mindful of the highly ambitious timelines for deployment of the EPAA and the rising long-range missile threat from the Islamic Republic of Iran, this section would provide the President a waiver if he determines the use of that authority is vital to the national security of the United States.

The committee is aware that the Administration decided that the European Phased Adaptive Approach to missile defense should be a U.S. contribution to NATO as announced at the Lisbon Summit in November 2010. The committee is concerned that when this commitment was made, there was no clear understanding of the cost of the EPAA deployment; the committee notes that there has not yet been a detailed assessment of the cost of the deployment. The committee understands that the Cost Assessment and Program Evaluation office in the Office of the Secretary of Defense is now attempting to provide a comprehensive and detailed cost estimate for the EPAA. The committee notes that in a letter in February of this year, Acting Under Secretary of Defense, stated that a briefing on the interim findings of the cost estimate would be provided in March of this year to support the committee's oversight activities; that briefing was not provided.

The committee is aware that some of the command and control arrangements are being sorted out now in anticipation of the NATO summit in May of 2012 in Chicago. As noted elsewhere in this report, the committee expects to be briefed on these arrangements, which should assist the committee in better understanding the extent to which the EPAA is providing for the missile defense of Europe and the missile defense of the United States and its interests, including its deployed forces. Such understanding is key to the appropriate cost-sharing of the EPAA.

The committee also notes significant budget challenges to the United States missile defense program in view of the budget cuts under the Budget Control Act (Public Law 112-25) and the President's budget requests since his fiscal year 2010 budget request. The committee is aware that the budget request for the Missile Defense Agency for fiscal year 2013 is approximately \$400.0 million less than the request for fiscal year 2012, and the projected requests between fiscal year 2013-16

are approximately \$3.6 billion less in the fiscal year 2013 Future Years Defense Program (FYDP) than they were in the fiscal year 2012 FYDP.

The committee notes that such reductions have had an impact on the budgets for the national missile defense programs, including the ground-based midcourse defense program, the sea-based X-band radar system, and forward deployed AN/TPY-2 radars, which can have significant capability for homeland and regional missile defense. The committee also notes significant reductions in systems like the Terminal High Altitude Area Defense system. The committee notes, however, that plans for the EPAA remain unchanged and, in many cases, the budget requests have been increased by the fiscal year 2013 budget request and FYDP. The committee recommends NATO provide financial support for the U.S. contribution to Europe's missile defense given the budget environment.

Section 231—Limitation on Availability of Funds for the Precision Tracking Space System

This section would limit the obligation or expenditure of funds authorized to be appropriated or otherwise made available for the Precision Tracking Space System (PTSS) until a contract is signed for an analysis of alternatives by a Federally Funded Research and Development Corporation (FFRDC), which has not been involved with the PTSS program to date, and which appoints a panel of independent study leaders. This provision would also require that the terms of reference for the study should be shared with the congressional defense committees when the AOA is commenced. This section would also limit the use of funds only to PTSS technology development activities until the FFRDC completes the analysis and 60 days have lapsed since the report has been provided to the congressional defense committees.

This section would require that the analysis of alternatives examine the possible lowest cost sensor option, i.e., land-, air-, space-based, or some combination of them, with respect to acquisition and operations and sustainment costs over the next 10 years, and for improving homeland missile defense, including adding discrimination capability for the Ground-based Midcourse Defense System. This section would also require the FFRDC to examine what overhead persistent imagery data or other data is already available that is not being used for missile defense and how the exploitation of that data could aid the missile defense mission. The FFRDC would also be required to study the plans for integrating PTSS into the ballistic missile defense system and evaluate the concept of operations for its use in the system.

The committee expects the analysis conducted by the FFRDC will be based on a clear articulation by the Missile Defense Agency (MDA) of the following: the ground-based sensors that will be required to be maintained to aid the PTSS constellation; the number of satellites planned to be procured for a first constellation (including projected lifetime of satellites in the first constellation) and a replenishment constellation; technological and acquisition risks of the PTSS, and

an evaluation of technological capability differences between PTSS and the STSS; and, the costs of the system including the projected acquisition, integration, operations, and sustainment costs, including for launch services. The committee expects all cost data used by the FFRDC will be fully validated by the Department of Defense Cost Assessment and Program Evaluation office, and will be compared with other missile defense sensor systems. This section would also require that the AOA include an examination of the space situational awareness capabilities of the PTSS, including requirements and cost-sharing between MDA and the Air Force based on a memorandum to be negotiated between the two agencies, which should be shared with the congressional defense committees.

The committee recommends this provision based on concerns raised by the Government Accountability Office (GAO) that a true analysis of alternatives (AOA) for PTSS was never conducted. In addition, in testimony before the Subcommittee on Strategic Forces in March 2012 on the missile defense budget request for fiscal year 2013, the Director, Missile Defense Agency stated that "the capability for a missile defense system like this will spend most of its time doing functions other than missile defense." The committee believes that a system that will spend most of its time doing a mission other than homeland missile defense, in this case, the space situational awareness mission, should be more directly designed for its primary mission, and that the MDA should not be entirely responsible for the cost of this system. In the event that the analysis of alternatives the committee has recommended concurs with the PTSS as the optimal way ahead for the homeland missile defense mission, the committee believes this provision is vital to ensure the responsible expenditure of taxpayer dollars.

Lastly, the committee is aware that the Cost Assessment and Program Evaluation office of the Office of the Secretary of Defense is still conducting a review of the cost of the PTSS. The committee believes that it should have a more fulsome understanding of the costs and tradeoffs of this system before it too heavily invests scarce missile defense dollars in this system.

Section 232—Plan to Improve Discrimination and Kill Assessment Capability of Ballistic Missile Defense Systems

The committee recommends a provision that would require the Director, Missile Defense Agency to develop a plan, to be submitted to the congressional defense committees not later than December 31, 2012, and include the funding for such plan in his fiscal year 2014 budget request, for an improved discrimination and kill assessment capability of the Ballistic Missile Defense Systems, including, specifically, the Ground-based Midcourse Defense system.

Section 233—Plan to Increase Rate of Flight Tests of Ground-Based Midcourse Defense System

This section would require the Director, Missile Defense Agency to develop a plan to increase the rate of flight tests and ground tests of the Ground-based

Midcourse Defense system. The plan shall ensure that there are at least three flight tests every 2 years, unless the Director, Missile Defense Agency provides written certification and an analysis to the congressional defense committees that it is not feasible or cost-effective. This section would require the Director include funding for such plan in the fiscal year 2014 budget request.

Section 234—Report on Regional Missile Defense Architectures

This section would require that the Secretary of Defense, in coordination with the Chairman of the Joint Chiefs of Staff, shall provide a report to the congressional defense committees not later than 90 days after the date of the enactment of this Act, describing: (1) the planned regional missile defense architectures, including the force structure and inventory requirements derived from these planned architectures, and their purpose and cost; and, (2) the comprehensive force management process, and the capability, deployment, and resource outcomes that have been determined by this process.

The National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) required the preparation of a report on regional missile defense plans in order to better understand the force structure and budgetary implications of the plan articulated in the Ballistic Missile Defense Review of 2010 to create regional missile defense architectures beyond the European Phased Adaptive Approach in East Asia and the Middle East. However, the committee can find no record of the receipt of this required report.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

LEGISLATIVE PROVISIONS

SUBTITLE B—SPACE ACTIVITIES

Section 913—Annual Assessment of the Synchronization of Segments in Space That Are Major Defense Acquisition Programs

This section would direct the Under Secretary of Defense for Acquisition, Technology, and Logistics to submit an annual assessment for 5 years of the synchronization of satellite, ground, and user terminal segments of space major defense acquisition programs. For each such space program for which a primary capability of such program will be operable by one program segment at least 1 year after the date on which such capability is operable by another program segment, the Under Secretary would provide the cause of the delay and identification of the steps the Department is taking to improve the alignment of when the program segments become operable and the related challenges, costs, and risks. The assessment

would also include a description of the impact to the mission of the space system from the delay.

SUBTITLE F—OTHER MATTERS

Section 954—Report on Overhead Persistent Infrared Technology

This section would require that the Secretary of Defense, in consultation with the Director of National Intelligence, shall submit to the congressional defense and the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence within 270 days after the date of the enactment of this Act, a report on OPIR that specifically addresses the following: (1) an assessment of whether there are further opportunities for the Department and the intelligence community to capitalize on increased data sharing, fusion, interoperability, and exploitation; and (2) a recommendation as to how to better coordinate efforts between the Department and the intelligence community for exploitation of OPIR sensor data.

This section would also require that not later than 90 days after the Department delivers its report to the congressional defense committees, the Comptroller General of the United States will assess the Department's report to ensure it is comprehensive, fully supported, and sufficiently detailed. Further, the Comptroller General shall identify any shortcomings, limitations, or other matters that affect the quality or findings of the Department's report on OPIR.

The committee is aware of significant investments in Overhead Persistent Infrared (OPIR) that span multiple agencies and support a variety of missions such as missile warning, missile defense, battlespace awareness, and technical intelligence. The committee is also aware that the Department and intelligence community have completed their Joint OPIR Ground study and are in the process of completing an OPIR space architecture study.

The committee commends the Department and the intelligence community for establishing a Joint OPIR Ground Integrated Program Office to improve the connectivity and sharing of OPIR sensor data as it relates to theater missile warning and defense, battlespace awareness, and technical intelligence. The committee believes the defense and intelligence communities have taken steps to improve the utilization and exploitation of OPIR sensor data, but further efforts should be made to more fully exploit the OPIR sensors.

TITLE X—GENERAL PROVISIONS

LEGISLATIVE PROVISIONS

SUBTITLE E—NUCLEAR FORCES

Section 1042—Nuclear Weapons Employment Strategy of the United States

This section would restate the sense of Congress regarding its role in oversight of the Nation's nuclear weapons employment strategy, plans, and options. This section would hold that congressional oversight is vital to the oversight of the Nation's nuclear weapons employment strategy, plans, and options, and that the Secretary would be required to provide such briefings to the chairmen and ranking members of the Senate Committee on Armed Services and the House Committee on Armed Services, and such professional staff as they designate, not later than March 15th of each year.

Section 1046 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) that also expressed the sense of the Congress regarding its oversight function over the Nation's nuclear weapons employment strategy, plans, and options. Section 1046 of Public Law 112-81 was informed by the understanding that the oversight process in place in the early 1990s whereby the Senate Committee on Armed Services and the House Committee on Armed Services, including designated professional staff, were afforded extraordinary access to the Nation's nuclear weapons employment strategy, plans, and options. The conferees were encouraged by a letter that from the Secretary of Defense on November 2, 2011, indicating this oversight process would resume but, to date, it has not resumed.

Section 1043—Interagency Council on the Strategic Capability of the National Laboratories

This section would establish an Interagency Council on the Strategic Capability of the National Laboratories. The membership of the council would include the Secretary of Defense, the Secretary of Energy, the Secretary of Homeland Security, the Director of National Intelligence, the Administrator for Nuclear Security, and other officials as designated by the President. The council would be responsible for a variety of matters related to identifying, assessing, and ensuring adequate support for strategic capabilities at the national laboratories that could be used by the participating agencies to accomplish national security missions. This section would also require each member of the council to create streamlined consideration and approval processes for their agency to procure the services of the national laboratories on appropriate matters. Finally, this section would require the council to submit a report to appropriate congressional committees on the functions and effectiveness of the council.

In June 2010, the Secretary of Energy, the Director of National Intelligence, the Secretary of Homeland Security, and the Secretary of Defense signed a "Governance Charter for an Interagency Council on the Strategic Capability of DOE National Laboratories as National Security Assets." The committee supports the intent of this charter, and recommends this provision to codify the Council and provide congressional direction regarding its functions. Elsewhere in this report, the committee discusses the Work For Others program at the Department of Energy and the National Nuclear Security Administration.

Section 1045—Report on the Capability of Conventional and Nuclear Forces
Against Certain Tunnel Sites

This section would require the Commander, U.S. Strategic Command to prepare a report for the congressional defense committees within 1 year after the date of the enactment of this Act on the implications of the underground tunneling network of the People’s Republic of China for the capacity of the conventional and nuclear forces of the United States to hold those tunnels (and assets contained within) at risk, including any implications for U.S. force structure and requirements. Such report would be provided to the congressional defense committees in an unclassified report, with a classified annex if necessary.

The committee also directs the Commander, U.S. Strategic Command to prepare a classified update of a report on the known hardened and deeply buried sites of foreign nations, as well as an assessment of the ability of the United States to neutralize such sites with conventional and or nuclear forces.

**DIVISION C—DEPARTMENT OF ENERGY NATIONAL
SECURITY AUTHORIZATIONS AND OTHER
AUTHORIZATIONS**

**TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY
PROGRAMS**

LEGISLATIVE PROVISIONS

SUBTITLE B—PROGRAM AUTHORIZATIONS, RESTRICTIONS, AND LIMITATIONS

Section 3111—Authorized Personnel Levels of the Office of the Administrator

This section would amend the National Nuclear Security Administration Act (50 U.S.C. 2401) by creating a new section 3241A that would limit the total number of employees of the National Nuclear Security Administration's (NNSA) Office of the Administrator. The total number of employees of the Office of the Administrator, as determined on a full-time equivalent basis, would be limited to 1,300 beginning 180 days after enactment, and 1,000 beginning October 1, 2013. The total number of employees would be limited to 800 beginning on October 1, 2014. This section would exclude from counting toward this limit the employees of the Office of Naval Reactors, the employees of the Office of Secure Transportation, and Members of the Armed Forces who are detailed to NNSA. The section would allow the Administrator to offer voluntary separation or retirement incentives to help meet the personnel level limits, and would require the Administrator to establish a work placement program to assist separating employees in finding new employment.

Further, this section would also amend section 3241 of the National Nuclear Security Administration Act (50 U.S.C. 2441) to increase from 300 to 450 the number of scientific, engineering, and technical positions in the NNSA. Finally, this section would require the Administrator to submit a report to the congressional defense committees by January 31 of each year from 2013-15, on the implementation of this section.

The committee believes that, as part of the reforms to the NNSA described in detail elsewhere in this title, the Administrator must streamline the NNSA's Federal workforce. A key component of the reforms required by this title is a transition from the current transaction-based system of oversight of the nuclear security enterprise to a performance-based system. Such a performance-based system will require fewer Federal employees but enable the NNSA to conduct equally robust oversight of its management and operating contractors. The committee believes that by limiting the number of Federal employees at the NNSA, Congress can provide a key mechanism for ensuring the transition to performance-based oversight occurs. The committee expects that the reductions will result in savings across the nuclear security enterprise, and that as a result, efficiencies at the laboratories and plants will increase and overhead rates will decrease.

The committee also notes that several independent assessments of NNSA's management and governance structure have stated that NNSA's Federal employees often lack the technical knowledge needed to effectively oversee many programs at the nuclear security laboratories. The committee believes that this section, which would increase by 50 percent the number of special scientific, engineering, and technical positions the Administrator may appoint within NNSA, would help address these concerns.

Section 3112—Budget Justification Materials

This section would require the Administrator of Nuclear Security to include in the budget request, beginning with the fiscal year 2014 budget request, an assessment of how that budget maintains the core nuclear weapons skills, including nuclear weapons design, engineering, production, testing, and prediction of stockpile aging. In its final report submitted to Congress in May 2009, the Congressional Commission on the Strategic Posture of the United States found that, "attracting and retaining the top national talent and expertise requires that the laboratories conduct challenging research on important national problems. This program of work must be sustained, predictable, and exercise the full range of laboratory skills, including nuclear weapon design skills. Exercising these design skills is necessary to maintain design and production engineering capabilities. Skills that are not exercised will atrophy." The Commission recommended that, "the Congress should require that annual NNSA budget submissions include an assessment of whether the budget as proposed will maintain these capabilities. To monitor progress, the NNSA and the White House Office of Management and Budget (OMB) should establish a formal mechanism for tracking funding sources

for the weapons laboratories, without additional administrative burden on the laboratories. The assessment of needed expertise, its recruitment, and its retention are necessary but not sufficient preconditions for maintaining proficiency. Those skills must be exercised." This section would seek to implement the Commission's recommendation.

Section 3113—Contractor Governance, Oversight, and Accountability

This section would amend the National Nuclear Security Administration Act (50 U.S.C. 2401) by adding a new section that would require the Administrator for Nuclear Security to establish a system of governance, management, and oversight of management and operating contracts of the National Nuclear Security Administration (NNSA). The system established by the Administrator would be required to: (1) Include clear and auditable performance-based standards related to both mission effectiveness and operations of the contractor; (2) ensure that governance, management, and oversight of the contract is conducted, when applicable, pursuant to national and international standards and best practices; (3) recognize the respective roles of the Federal Government in determining performance-based objectives and the contractor (particularly contractors running a Federally Funded Research and Development Corporation) in determining how to accomplish such objectives; (4) conduct oversight based on outcomes and performance-based standards and not detailed, transaction-based oversight; and (5) include measures to ensure the Administrator has accurate and consistent data to manage and make decisions across the nuclear security enterprise. The Administrator would be allowed to exempt certain areas of governance, management, and oversight from the requirements of this system if the Administrator submits an annual certification of such exemption to the congressional defense committees that includes a description of why such exemption is needed.

This section would also require the Administrator to ensure that each management and operating contract of NNSA includes robust mechanisms for ensuring the accountability of the contractor and that the Administrator exercise such mechanisms as appropriate to ensure high-level performance by the contractor.

Further, this section would require the Administrator to ensure that any oversight activity performed by any Federal agency on a management and operating contract of the NNSA is conducted in accordance with the system established pursuant to this section. If the Administrator were to determine that a Federal agency is not conducting oversight activities in accordance with the system, this section would require the Administrator to notify the congressional defense committees of such activity within 30 days of such determination.

Finally, this section would require the Administrator to submit a report by January 15, 2013, and each year thereafter until 2016, to the congressional defense committees that includes a description of each instance during the previous year in

which an agency of the Federal Government used a procedure, standard, or process of governance, management, and oversight of a contract of the NNSA that is not a procedure, standard, or process that conforms to national or international standards or industry best practices. The report would also be required to include a description of why each such procedure, standard, or process was used instead of a national or international standard or best practice. Finally, the report would include a description of any oversight activities by any agency of the Federal Government that occurred during the previous year that the Administrator considers duplicative or unnecessary.

Section 3114—National Nuclear Security Administration Council

This section would amend section 4102 of the Atomic Energy Defense Act (50 U.S.C. 2512) to streamline statutory requirements related to the management structure of the National Nuclear Security Administration (NNSA). This section would also reform and broaden the mandate of the Defense Programs Management Council and rename it the "National Nuclear Security Administration Council." The Council would advise the Administrator for Nuclear Security on scientific and technical issues related to policy matters, and on operational concerns, strategic planning, and development of priorities related to the nuclear security enterprise and to the mission and operations of the NNSA. The Council would be composed of the directors of NNSA's national security laboratories and nuclear weapons production facilities. This section would also provide the Council the authority to provide recommendations to the Administrator or the Secretary of Energy, and would require the Administrator or the Secretary to provide a response to the Council within 60 days of receiving such a recommendation.

The committee believes that the NNSA Council would provide an important mechanism for the directors of the national security laboratories and nuclear weapons production facilities to provide their recommendations on mission- and operational-concerns to the Administrator and the Secretary; create a necessary and sustained dialogue between NNSA and the directors of its laboratories and plants on NNSA's strategic priorities and plans; and help ensure robust implementation and successful execution of reforms to NNSA's management, governance, and oversight structures and processes.

Section 3115—Safety, Health, and Security of the National Nuclear Security Administration

This section would amend the National Nuclear Security Administration Act (Public Law 106-65) to require the Administrator for Nuclear Security to establish policies and procedures for the regulation and oversight of health, safety, and security of the nuclear security enterprise. In conjunction with a provision the committee includes elsewhere in this title that would strengthen the autonomy of the NNSA, this section would transition the authority to make policy, prescribe regulations, and conduct oversight of health, safety, and security in the nuclear

security enterprise from the Department of Energy (DOE) to the National Nuclear Security Administration (NNSA).

First, this section would amend section 3231 of the National Nuclear Security Administration Act (50 U.S.C. 2421) to require the Administrator for Nuclear Security to establish policies and procedures to ensure the protection of special nuclear material, sensitive physical assets, and classified information in the possession of the NNSA. The Administrator would be required to establish procedures to ensure any significant problems related to security are promptly reported.

Second, this section would amend section 3261 of the National Nuclear Security Administration Act (50 U.S.C. 2461) to ensure that the Administrator is the responsible authority for ensuring and overseeing NNSA compliance with all applicable health and safety requirements. For non-nuclear operations, the Administrator would be required to ensure that NNSA complies with all applicable occupational safety and health standards promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and that compliance and oversight of such standards is conducted in accordance with best industry and Government practices and with the performance-based system of governance, management, and oversight established pursuant to a provision included elsewhere in this title. The Administrator would be limited from establishing or prescribing any order, rule, or regulation regarding occupational safety and health unless such order, rule, or regulation is pursuant to standards resulting from section 6 of the Occupational Safety and Health Act of 1970.

For nuclear operations, this section would require the Administrator to prescribe appropriate policies and regulations to ensure that risks to the health and safety of the employees of NNSA and its contractors, as well as the general public, are as low as practicable and that adequate protection is provided. The Administrator would be required to ensure that compliance and oversight of such policies related to nuclear operations is in accordance with the performance-based system of governance, management, and oversight established pursuant to a provision included elsewhere in this title. This section would delay full transition of authority with regards to nuclear safety until October 1, 2013, and would require the Administrator to submit a report to the congressional defense committees by March 1, 2013, on an implementation plan and cost-benefit analysis for transitioning the policy, regulatory, and oversight authority for nuclear safety from the Department of Energy to the NNSA.

In its February 2012 Phase I report on "Managing for High-Quality Science and Engineering at the NNSA National Security Laboratories," the National Academies of Science recommended "that the NNSA, Congress, and top management of the Laboratories recognize that safety and security systems at the Laboratories have been strengthened to the point where they no longer need special attention. NNSA and Laboratory management should explore ways by which the administrative, safety, and security costs can be reduced, so that they not impose an excessive burden on essential science and engineering activities."

In its 2009 report, the bipartisan Congressional Commission on the Strategic Posture of the United States found that "the regulatory burden on the laboratories is excessive and should be rationalized," and "that burden imposes a significant cost and less heavy-handed oversight would bring real benefits." The Commission continued, "This conclusion is backed up by some real data. One recent external assessment of NNSA laboratories...found a very high cost of compliance with federal safety and security requirements—approximately 15 times as much as for companies of similar complexity (recognizing also some important differences in some of the functions of those companies). Some other data is available from a pilot program conducted by the NNSA at the Kansas City Plant in 2006 and 2007. Under this program, the plant was exempted from essentially all DOE regulations and additional oversight changes were made. An external audit documented significant savings. Extending this approach throughout the complex is feasible."

In response to a request from the Secretary of Energy, the National Laboratory Directors Council (consisting of DOE and NNSA national lab directors) submitted a white paper in May 2011, identifying 18 policies and practices the NLDC deemed "most burdensome." The NLDC stated that the DOE rule regarding occupational health goes "significantly beyond the Occupational Safety and Health Administration (OSHA) standards and incorporates standards that were not designed to be regulatory in nature. It has not been demonstrated that the rule has improved worker safety at DOE facilities since its adoption; however, the cost to implement and maintain the requirements that go beyond the OSHA standards have significantly increased costs...Therefore, it is recommended that the rule be revised to implement only OSHA standards. This action would align DOE facilities with U.S. industry, academia, and other federal facilities such as the National Institute of Standards and Technology." The Strategic Posture Commission recommended this action as well, saying in its 2009 report: "the commission recommends that the Administrator should issue no regulations concerning occupational health and safety but should depend on the Occupational Safety and Health Administration for both regulations and oversight."

Based upon these and other reports, the committee believes that the lines of authority, responsibility, and oversight for health, safety, and security within the nuclear security enterprise are unclear, duplicative, and inefficient. The committee believes that safety and security must remain a paramount concern for the NNSA, but notes that, as in military operations, duplicative and confused lines of authority and responsibility often lead to less effective outcomes. The committee believes this section, coupled with other provisions included elsewhere in this title, would streamline redundant functions, and lead to more effective and more efficient oversight of these important matters.

Section 3116—Design and Use of Prototypes of Nuclear Weapons

This section would required that the Administrator of Nuclear Security should develop and carry out a plan for the national nuclear weapons laboratories

and nuclear weapons production plants to design and build prototypes of nuclear weapons to further intelligence assessments of foreign nuclear weapons activities. This section would also prohibit the Administrator from conducting any experiment that would produce a nuclear yield. The committee urges the Administrator to use surrogate materials where appropriate in designing and building these prototypes.

The committee notes in its final report, one of the recommendations the Congressional Commission on the Strategic Posture of the United States was that: "A particularly sensitive question is whether the laboratories should be permitted to do weapons design work in support of this intelligence mission. At issue is whether the United States should seek to improve its understanding of the feasibility of the weapons design efforts of others by replicating those designs in U.S. laboratories. In the commission's view, this is possible and this work should be permitted. At a time of rising concern about efforts by proliferators to develop and improve their nuclear weapons, and of nuclear terrorism, such work is indeed critical. Such work would not involve the design of new weapons with new military characteristics for deployment by the United States. It can and should be done in accordance with U.S. policies not to produce fissile materials and not to conduct nuclear explosive tests. It would be limited to assessing whether adversarial efforts in development of new nuclear weapons will result in operational capabilities, and what technical, military, political, and other consequences might follow from the potential new capabilities. Working with partners in the intelligence community, the laboratories should be in a position to advise national leadership on foreign nuclear weapons activities bearing on the interests of the United States and its allies. In short, the commission recommends that the laboratories be allowed to design, simulate, and experimentally assess foreign nuclear weapon designs for the purposes of defensive analysis."

Further, the committee notes that the National Academies panel on the Comprehensive Nuclear Test Ban Treaty made a similar recommendation when it stated: "Allowing the workforce to have the technical responsibility and flexibility in defining the paths to mission goals supports both workforce development and workforce morale. The "challenge programs" run by the AWE illustrate what can be achieved in this regard. For example, in one challenge program the AWE designed a new warhead (together with the non-nuclear components), although the UK has no intention of producing any such weapon. This helped to maintain proficiency and train the next generation of warhead designers. Such flexibility for activities undertaken by AWE with MOD approval (but not MOD direction) helps to recruit and maintain a top-flight workforce and to exercise the advanced tools of the program. Programs of this nature have been tried, with positive workforce response, in the U.S. complex, but have fallen victim to budget pressures and micromanagement to short term goals."

Section 3117—Improvement and Streamlining of the Missions and Operations of the Department of Energy and National Nuclear Security Administration

This section would require the Secretary of Energy and the Administrator for Nuclear Security to revise various regulations, rules, directives, orders, and policies to improve and streamline the administration, execution, and oversight of the Department of Energy (DOE) and the National Nuclear Security Administration's (NNSA) missions and operations, within 90 days after the date of the enactment of this Act. These efforts would include: (1) streamlining business processes and structures to reduce unnecessary, overly burdensome, or duplicative approvals; (2) delegating approval for all but very high value or unique Work Force Others (WFO) agreements and Cooperative Research and Development Agreements (CRADA) to DOE and NNSA's management and operating contractors while holding such contractors accountable for maintaining appropriate WFO and CRADA portfolios; (3) establishing processes for ensuring routine or low-risk procurement and subcontracting decisions are made at the discretion of the management and operating contractors; (4) assessing current procurement thresholds and taking steps to adjust such thresholds if appropriate; (5) eliminating duplicative or low-value reports and data calls and ensuring consistency in management and cost accounting data; and (6) streamlining, clarifying, and eliminating redundancy in regulations, rules, directives, orders, and policies. Finally, this section would require the Secretary and the Administrator to provide a briefing on these efforts to the congressional defense committees and the Senate Committee on Energy and Natural Resources and the House Committee on Energy and Commerce.

Section 3118—Cost-Benefit Analyses for Competition of Management and Operating Contracts

This section would require the Administrator for Nuclear Security to submit a report to the congressional defense committees before the Administrator releases any final request for proposals for competition of any contract to manage and operate a facility of the National Nuclear Security Administration. The report would be required to include a cost-benefit analysis of the competition that includes the expected costs and cost savings resulting from the competition; a description of any disruption or delay in mission activities or deliverables resulting from the competition; a description of any benefits of the proposed competition to mission performance or operations; and an assessment of how the competition complies with the Federal Acquisition Regulation regarding Federally Funded Research and Development Centers, if applicable. This section would also require the Comptroller General of the United States to submit a review of the Administrator's report to the congressional defense committees within 90 days of the Administrator submitting any report pursuant to this section. The requirements of this section would apply to any request for proposals that is released by the Administrator during fiscal years 2012-17.

Section 3119—Limitation on Availability of Funds for Inertial Confinement Fusion Ignition and High Yield Campaign

This section would limit the obligation and expenditure of funds for fusion ignition research and experiments to not more than 50 percent until the Administrator for Nuclear Security certifies to the congressional defense committees that fusion ignition has been achieved at the National Ignition Facility (NIF) or the Administrator submits a report on fusion ignition. The report should include a thorough description of the remaining technical challenges and gaps in understanding with respect to ignition; a plan and schedule for reevaluating the ignition program and incorporating experimental data into computer models; the best judgment of the Administrator with respect to whether ignition can be achieved at the NIF; and a description of how, if funding being spent on ignition research were applied to life extension programs, such programs could be accelerated or otherwise improved, and how this funding change would impact the stockpile stewardship program.

SUBTITLE C—IMPROVEMENTS TO NATIONAL SECURITY ENERGY LAWS

Section 3131—Improvements to the Atomic Energy Defense Act

This section would make changes to the Atomic Energy Defense Act (50 U.S.C. 2501) to streamline the statute, update terminology, clarify definitions, and make technical corrections.

Section 3132—Improvements to the National Nuclear Security Administration Act

This section would make changes to the National Nuclear Security Administration Act (Public Law 106-65) to streamline the statute, repeal expired sections of the code, update terminology, clarify definitions, and make technical corrections.

Section 3133—Clarification of the Role of the Administrator for Nuclear Security

This section would clarify the role of the Administrator for Nuclear Security and reinforce the semi-autonomous nature of the National Nuclear Security Administration (NNSA) by amending various sections of the National Nuclear Security Administration Act (50 U.S.C. 2401), the Atomic Energy Defense Act (50 U.S.C. 2501), and the Department of Energy Organization Act (42 U.S.C. 7131). This section would clarify that the Administrator is responsible for all programs, policies, regulations, and rules of the NNSA. This section would further clarify that the Secretary of Energy may disapprove any action, policy, regulation, or rule of the Administrator if the Secretary submits justification for such disapproval to the congressional defense committees and a period of 15 days has elapsed since such justification was submitted. This section would also clarify that the Administrator has complete authority to establish and conduct oversight of policies, activities, and procedures of the NNSA without direction or oversight by the Secretary, and establish that the Secretary's authority to administer, enforce, or oversee the

activities of the NNSA would be limited to the disapproval authority described above, unless otherwise specifically provided by law. This section would also amend several statutes to transfer authority for certain activities from the Secretary to the Administrator.

In its 2009 report, the Congressional Commission on the Strategic Posture of the United States recommended making NNSA a fully autonomous agency reporting to the President through the Secretary of Energy. The Commission recommended following the example of the Federal Energy Regulatory Commission (FERC), which reports to the Secretary of Energy, and for which the Secretary only has the authority to comment on and not disapprove FERC's budget. Also in 2009, a study by The Henry L. Stimson Center, "Leveraging Science for Security: A Strategy for the Nuclear Weapons Labs in the 21st Century," was highly critical of both the Department of Energy (DOE) and the NNSA. The Stimson Center Task Force concluded that the choices for reform were clear, either "initiate an extensive overhaul of DOE/NNSA to achieve intended agency autonomy" or "create a new independent agency with the institutional mechanisms and oversight in place to achieve the envisioned transformation and fully leverage the taxpayer's investments." Ultimately, the Task Force "strongly recommend[ed] creating a fully independent agency...the Task Force proposes fully severing NNSA and its Federally Funded Research and Development Centers, including the Nevada Test Site, from DOE." The committee agrees with these and other recent assessments that the degree of autonomy intended by the National Nuclear Security Administration Act has not been achieved. This section would strengthen the autonomy of NNSA and reinforce the intent of the legislation.

Section 3134—Consolidated Reporting Requirements Relating to Nuclear Stockpile Stewardship, Management, and Infrastructure

This section would consolidate several existing reporting requirements in sections 4202, 4203, 4203A, 4204, 4207, and 4208 the Atomic Energy Defense Act (Public Law 106-65), as well as section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106), and consolidate them into a new section. This section would create a consolidated requirement for the Administrator for Nuclear Security, in consultation with the Secretary of Defense and other appropriate officials, to develop and annually update a plan for sustaining the nuclear weapons stockpile. The plan would be required to cover, at a minimum, stockpile stewardship, stockpile management, stockpile surveillance, program direction, infrastructure modernization, human capital, and nuclear test readiness. This section would require the Administrator to submit a summary of this plan, including identification of changes to the plan, to the congressional defense committees in each even-numbered year, and a detailed report on the plan in each odd-numbered year. Finally, this section would require the Nuclear Weapons Council, in each odd-numbered year, to submit to Congress an assessment of certain aspects of the plan developed by the Administrator and determine whether the plan

adequately supports nuclear security enterprise infrastructure modernization requirements.

Section 3135—Repeal of Certain Reporting Requirements

This section would repeal several recurring reporting requirements. First, this section would repeal the requirement in section 3134 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) for the Comptroller General of the United States to submit a status report every 120 days to the congressional defense committees on the environmental clean-up projects conducted by the Department of Energy's Office of Environmental Management with funds provided by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5). Second, this section would amend section 4604 of the Atomic Energy Defense Act (50 U.S.C. 2704) to repeal the requirement for the Secretary of Energy to annually submit to Congress an update of the Department of Energy's defense nuclear facilities workforce restructuring plan. Finally, this section would amend section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) to eliminate the requirement that the Secretary of Energy prepare a quarterly report that identifies information determined to be Unclassified Controlled Nuclear Information during the quarterly reporting period.

SUBTITLE D—REPORTS

Section 3141—Notification of Nuclear Criticality and Non-Nuclear Incidents

This section would require the Administrator for Nuclear Security and the Secretary of Energy to notify the appropriate congressional committees of any nuclear criticality incident resulting from programs of the National Nuclear Security Administration or the defense environmental cleanup program which results in an injury or fatality or results in the shut-down, or partial shut-down, of a facility of the nuclear security enterprise or of a facility of the Office of Environmental Management, within 15 days of such occurrence. The notification would include a description of the incident, including the cause of the incident, any mission impacts, and any corrective action taken in response to the incident. This section would also require the Secretary and the Administrator to maintain a record of these nuclear incidents and of any non-nuclear incidents that result in serious bodily injury or a fatality. Finally, this section would require the Secretary and the Administrator to submit a report to the appropriate congressional committees within 90 days after the date of the enactment of this Act detailing any such incidents that have occurred in the last 10 years.

The committee continues to view nuclear and non-nuclear safety as an important tenet of nuclear operations in the context of potential changes in governance and management structures.

Section 3142—Reports on Lifetime Extension Programs

This section would require that before proceeding beyond phase 6.2 activities on any life extension activities, the directors of the national nuclear weapons laboratories shall submit to the congressional defense committees a report on the lifetime extension program option for the nuclear physics package, i.e., refurbishment, reuse, and replacement, of that weapon and an assessment of why the option selected was selected, including an assessment of pros and cons of the other two options, including costs and other considerations. The lab director's assessment would be submitted to the congressional defense committees without change by the Administrator of Nuclear Security, though he may if he chooses, submit his own explanation.

The committee notes that section 1062 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181) created the Congressional Commission on the Strategic Posture of the United States. The committee is aware that the commission stated that the "basic approaches to refurbishment and modernization are, in fact, not stark alternatives. Rather, they are options along a spectrum. That spectrum is defined at its two ends by the pure re-manufacturing of existing warheads with existing components at one end and complete redesign and new production of all system components at the other. In between are various options to utilize existing components and design solutions while mixing in new components and solutions as needed. Different warheads may lend themselves to different solutions along this spectrum. The decision on which approach is best should be made on a case-by-case basis as the existing stockpile of warheads ages." The committee is further aware that the commission recommended that, "[t]he decision on which approach to refurbishing and modernizing the nuclear stockpile is best should be made on a type-by-type basis as the existing stockpile of warheads ages."

Section 3143—National Academy of Sciences Study on Peer Review and Design Competition Related To Nuclear Weapons

This section would require the Administrator for Nuclear Security to enter into an agreement with the National Academies of Science to conduct a study of peer review and design competition related to nuclear weapons. The National Academies study would be required to include an assessment of: the quality and effectiveness of peer review of designs, development plans, engineering and science activities, and priorities related to both nuclear and non-nuclear aspects of nuclear weapons; incentives for effective peer-review; the potential effectiveness, efficiency, and cost of alternative methods of conducting peer review and design competition related to both nuclear and non-nuclear aspects of nuclear weapons (as compared to current methods); the known instances where peer review practices and design competition succeeded or failed to find problems or potential problems; and any other related matters the Administrator considers appropriate. The Administrator would be required to ensure the National Academies receives full and timely cooperation from the National Nuclear Security Administration, and its contractors,

for the purposes of conducting the study. The Administrator would be required to submit the report and any recommendations of the National Academies, together with any comments or recommendations, to the congressional defense committees by December 15, 2014.

The committee believes that peer review and design competition are critical components of nuclear stockpile stewardship and important means of ensuring the health and reliability of the stockpile in the absence of nuclear explosive testing. Because of its importance, the committee believes an independent assessment is needed to understand the effectiveness of current practices and a thorough analysis of previous instances where peer review and design competition either succeeded or failed to find problems. Further, in a constrained fiscal environment where funds for peer review and design competition may face significant pressure, the committee seeks to better understand the effectiveness and efficiency of alternative means of conducting peer review and design competition.

Section 3145—Study on Reuse of Plutonium Pit

This section would require the Administrator for Nuclear Security to conduct a study of the plutonium pits available, and those that may become available as a result of nuclear weapon dismantlement, and assess the potential for reuse of these pits in future life extension programs. The study would include an analysis of: the feasibility and practicability of potential full or partial reuse options; the benefits and risks of reusing plutonium pits; the potential costs and cost savings; and the impacts of reuse on the requirements for pit manufacturing. This section would require the Administrator to submit a report on the results of the study to the congressional defense committees within 120 days after the date of the of enactment of this Act.

SUBTITLE E—OTHER MATTERS

Section 3151—Use of Probabilistic Risk Assessment to Ensure Nuclear Safety

This section would require the Administrator for Nuclear Security and the Secretary of Energy to ensure that the methods for certifying and overseeing nuclear safety at defense nuclear facilities of the National Nuclear Security Administration (NNSA) and the Department of Energy's Office of Environmental Management use national and international standards and nuclear industry best practices, including probabilistic risk assessment, for parts, equipment, and systems for which sufficient data exists to support such methods.

The committee notes that the nuclear safety assessment and certification methods used by the Office of Environmental Management and the NNSA for proven systems have lagged behind more modern methods used by the nuclear power industry and the Nuclear Regulatory Commission. The highly prescriptive and deterministic methods used by the Office of Environmental Management and the NNSA have resulted in highly complex systems of engineered controls when

more modern safety assessment and certification methods, such as probabilistic risk assessment, may result in much simpler systems with equally robust safety margins when sufficient data exists to support such methods. The committee expects the Office of Environmental Management and NNSA to consult with the Nuclear Regulatory Commission to understand and leverage lessons learned from the development and application of modern safety assessment and certification methods in both nuclear power reactors and other civilian nuclear facilities. The committee notes that these methods may not apply to one-of-a-kind parts, equipment, or systems.

Section 3152—Advice to President and Congress Regarding Safety, Security, and Reliability of United States Nuclear Weapons Stockpile and Nuclear Forces

This section would transfer section 7274p of title 42, United States Code, and re-designate it as section 4215 of the Atomic Energy Defense Act.

This section would also amend and clarify the underlying statute to ensure that no person, including representatives of the President, may prevent or constrain a director of a national security laboratory, a director of a nuclear weapons production facility, a member of the Nuclear Weapons Council, or the Commander, U.S. Strategic Command from sharing his or her professional views with the President, the National Security Council, or Congress. This section would ensure that such individuals can freely share their professional views with national leaders on the safety, security, reliability, and credibility of the nuclear weapons stockpile and nuclear forces, as well as the status of, and plans for, the capabilities and infrastructure that support and sustain the nuclear weapons stockpile and nuclear forces. This section would ensure that these individuals can provide classified information on these matters directly to Congress, and it requires the Administrator for Nuclear Security and the Secretary of Defense to establish classified mail channels to enable provision of such information.

The committee believes that all national leaders require access to the objective, independent, and unfiltered professional opinions of the Nation's nuclear weapons experts. This section would ensure that the President, the National Security Council, and Congress have such direct access.

Section 3153—Classification of Certain Restricted Data

This section would amend section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162) to permit the Secretary of Energy, in conjunction with the Secretary of Defense or the Director of National Intelligence, to restore certain information related to the design of nuclear weapons back into the Restricted Data category. This section would also make a technical correction to subsection 142e. of the Atomic Energy Act by updating the term "Director of Central Intelligence" to "Director of National Intelligence" to conform section 142e. with the transfer of functions contained in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

Section 3154—Independent Cost Assessments for Life Extension Programs, New Nuclear Facilities, and Other Matters

This section would require the Secretary of Defense, acting through the Director of Cost Assessment and Program Evaluation (CAPE) and in coordination with the Administrator for Nuclear Security, to assess the cost of options and alternatives for new life extension programs and new nuclear facilities within the nuclear security enterprise that are expected to cost more than \$500.0 million. This section would also require the Secretary of Defense to submit a copy of these cost assessments to the congressional defense committees within 30 days of their completion. Finally, this section would provide the Administrator for Nuclear Security the authority to ask the Secretary of Defense to seek a CAPE assessment on other initiatives of the National Nuclear Security Administration that are expected to cost more than \$500.0 million.

The committee expects that an independent cost assessment will increase accountability and inform diligent planning to avoid budget overruns and schedule delays. The committee expects that the Administrator and the Secretary will conduct a cost estimate for upcoming life extension programs, including those for the W78 and W88.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

LEGISLATIVE PROVISIONS

Section 3201—Authorization

This section would authorize funds for the Defense Nuclear Facilities Safety Board for fiscal year 2013.

Section 3202—Improvements to the Defense Nuclear Facilities Safety Board

The section would amend the enabling statute of the Defense Nuclear Facilities Safety Board (DNFSB) to provide congressional direction regarding the DNFSB's operation, clarify the DNFSB's mission, and improve collaboration between the DNFSB and the Department of Energy.

First, this section would clarify that each member of the DNFSB has equal responsibility and authority for establishing decisions and determining certain actions of the DNFSB, that each member must have full and simultaneous access to all information related to the DNFSB, that each member shall have one vote, that a quorum of members is needed for certain actions, and that each member of the DNFSB may propose individuals for senior staff positions and require a determination of the DNFSB on whether the individual will be appointed. This section would also require that each member of the DNFSB be provided funds to employ at least one technical advisor to directly support the member, and that such

advisor would not be subject to the appointment, direction, or supervision of the DNFSB chairman.

Second, this section would clarify that the mission of the DNFSB is to provide independent analysis, advice, and recommendations to the Secretary of Energy to ensure that risks to public health and safety at defense nuclear facilities are as low as reasonably practicable and that public health and safety are adequately protected. In any recommendations submitted to the Secretary, the DNFSB would be required to consider, and specifically assess, the technical and economic feasibility, the costs and benefits, and the practicability of implementing its recommended measures.

Third, this section would revise the statutory authority for the DNFSB to submit recommendations to the Secretary of Energy, creating a more collaborative recommendation process in which the DNFSB provides a draft recommendation to the Secretary, who then has at least 45 days to provide comments on the recommendation. After this comment period, the DNFSB may choose to formalize and publish the recommendation in the Federal Register and seek public comment. After such publication, the Secretary of Energy would have at least 60 days to accept or reject the recommendation and publish a statement in the Federal Register regarding the recommendation and why it was accepted or rejected. If a recommendation is rejected, the DNFSB may transmit a letter to the Senate Committee on Armed Services and the House Committee on Armed Services. If a recommendation is accepted, the Secretary would be required to submit an implementation plan to the DNFSB within 120 days. Further, if the DNFSB submits a recommendation regarding an imminent or severe threat to public health and safety, the Secretary of Energy would have 15 days to provide comments to the President on the recommendation.

Finally, this section would require certain reports of the DNFSB to be submitted to the Senate Committee on Armed Services and the House Committee on Armed Services, and the DNFSB to enter into an agreement with a Federal agency to procure the services of the Inspector General of that agency for the DNFSB.

BILL LANGUAGE

Titles 1, 2, 9, 10, 31, & 32

1 **SEC. 134 [Log #18072]. PROCUREMENT OF SPACE-BASED IN-**
2 **FRARED SYSTEMS.**

3 (a) CONTRACT AUTHORITY.—

4 (1) IN GENERAL.—The Secretary of the Air
5 Force may procure two space-based infrared systems
6 by entering into a fixed-price contract. Such pro-
7 curement may also include—

8 (A) material and equipment in economic
9 order quantities when cost savings are achiev-
10 able; and

11 (B) cost reduction initiatives.

12 (2) USE OF INCREMENTAL FUNDING.—With re-
13 spect to a contract entered into under paragraph (1)
14 for the procurement of space-based infrared systems,
15 the Secretary may use incremental funding for a pe-
16 riod not to exceed six fiscal years.

17 (3) LIABILITY.—A contract entered into under
18 paragraph (1) shall provide that any obligation of
19 the United States to make a payment under the con-
20 tract is subject to the availability of appropriations
21 for that purpose, and that the total liability to the
22 Government for termination of any contract entered
23 into shall be limited to the total amount of funding
24 obligated at the time of termination.

25 (b) LIMITATION OF COSTS.—

1 (1) LIMITATION.—Except as provided by sub-
2 section (c), and excluding amounts described in
3 paragraph (2), the total amount obligated or ex-
4 pended for the procurement of two space-based in-
5 frared systems authorized by subsection (a) may not
6 exceed \$3,900,000,000.

7 (2) EXCLUSION.—The amounts described in
8 this paragraph are amounts associated with the fol-
9 lowing:

10 (A) Plans.

11 (B) Technical data packages.

12 (C) Post-delivery and program support
13 costs.

14 (D) Technical support for obsolescence
15 studies.

16 (c) WAIVER AND ADJUSTMENT TO LIMITATION
17 AMOUNT.—

18 (1) WAIVER.—In accordance with paragraph
19 (2), the Secretary may waive the limitation in sub-
20 section (b)(1) if the Secretary submits to the con-
21 gressional defense committees written notification of
22 the adjustment made to the amount set forth in
23 such subsection.

24 (2) ADJUSTMENT.—Upon waiving the limita-
25 tion under paragraph (1), the Secretary may adjust

1 the amount set forth in subsection (b)(1) by the fol-
2 lowing:

3 (A) The amounts of increases or decreases
4 in costs attributable to economic inflation after
5 September 30, 2012.

6 (B) The amounts of increases or decreases
7 in costs attributable to compliance with changes
8 in Federal, State, or local laws enacted after
9 September 30, 2012.

10 (C) The amounts of increases or decreases
11 in costs of the satellites that are attributable to
12 insertion of new technology into a space-based
13 infrared system, as compared to the technology
14 built into such a system procured prior to fiscal
15 year 2013, if the Secretary determines, and cer-
16 tifies to the congressional defense committees,
17 that insertion of the new technology is—

18 (i) expected to decrease the life-cycle
19 cost of the system; or

20 (ii) required to meet an emerging
21 threat that poses grave harm to national
22 security.

23 (d) REPORT.—Not later than 30 days after the date
24 on which the Secretary awards a contract under sub-
25 section (a), the Secretary shall submit to the congressional

1 defense committees a report on such contract, including
2 the following:

3 (1) The total cost savings resulting from the
4 authority provided by subsection (a).

5 (2) The type and duration of the contract
6 awarded.

7 (3) The total contract value.

8 (4) The funding profile by year.

9 (5) The terms of the contract regarding the
10 treatment of changes by the Federal Government to
11 the requirements of the contract, including how any
12 such changes may affect the success of the contract.

13 (6) A plan for using cost savings described in
14 paragraph (1) to improve the capability of overhead
15 persistent infrared, including a description of—

16 (A) the available funds, by year, resulting
17 from such cost savings;

18 (B) the specific activities or subprograms
19 to be funded by such cost savings and the
20 funds, by year, allocated to each such activity
21 or subprogram;

22 (C) the objectives for each such activity or
23 subprogram and the criteria used by the Sec-
24 retary to determine which such activity or sub-
25 program to fund;

1 (D) the method in which such activities or
2 subprograms will be awarded, including whether
3 it will be on a competitive basis; and

4 (E) the process for determining how and
5 when such activities and subprograms would
6 transition to an existing program or be estab-
7 lished as a new program of record.

1 **SEC. 137 [Log #18752]. LIMITATION ON AVAILABILITY OF**
2 **FUNDS FOR EVOLVED EXPENDABLE LAUNCH**
3 **VEHICLE PROGRAM.**

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

6 (1) assured access to space remains critical to
7 national security; and

8 (2) the plan by the Air Force to commit, begin-
9 ning in fiscal year 2013, to an annual production
10 rate of launch vehicle booster cores should maintain
11 mission assurance, stabilize the industrial base, re-
12 duce costs, and provide opportunities for competi-
13 tion.

14 (b) LIMITATION.—Of the funds authorized to be ap-
15 propriated by this Act or otherwise made available for fis-
16 cal year 2013 for the Air Force for the evolved expendable
17 launch vehicle program, 10 percent may not be obligated
18 or expended until the date on which the Secretary of the
19 Air Force submits to the congressional defense commit-
20 tees—

21 (1) a report describing the acquisition strategy
22 for such program; and

23 (2) written certification that such strategy—

24 (A) maintains assured access to space;

25 (B) achieves substantial cost savings; and

26 (C) provides opportunities for competition.

1 (c) MATTERS INCLUDED.—The report under sub-
2 section (b)(1) shall include the following information:

3 (1) The anticipated savings to be realized under
4 the acquisition strategy for the evolved expendable
5 launch vehicle program.

6 (2) The number of launch vehicle booster cores
7 covered by the planned contract for such program.

8 (3) The number of years covered by such con-
9 tract.

10 (4) An assessment of when new entrants that
11 have submitted a statement of intent will be certified
12 to compete for evolved expendable launch vehicle-
13 class launches.

14 (5) The projected launch manifest, including
15 possible opportunities for certified new entrants to
16 compete for evolved expendable launch vehicle-class
17 launches.

18 (6) Any other relevant analysis used to inform
19 the acquisition strategy for such program.

20 (d) COMPTROLLER GENERAL.—

21 (1) REVIEW.—The Comptroller General of the
22 United States shall review the report under sub-
23 section (b)(1).

24 (2) SUBMITTAL.—Not later than 30 days after
25 the date on which the report under subsection (b)(1)

1 is submitted to the congressional defense commit-
2 tees, the Comptroller General shall—

3 (A) submit to such committees a report on
4 the review under paragraph (1); or

5 (B) provide to such committees a briefing
6 on such review.

1 **Subtitle C—Missile Defense**
2 **Programs**

3 **SEC. 221 [Log #18014]. PROCUREMENT OF AN/TPY-2 RADARS.**

4 (a) **PROCUREMENT.**—The Secretary of Defense shall
5 procure two AN/TPY-2 radars.

6 (b) **REPORT.**—The Secretary of Defense shall submit
7 to the congressional defense committees a report on the
8 feasibility of developing an AN/TPY-2 radar on a rota-
9 tional table to allow the radar to quickly change directions.

1 **SEC. 222 [Log #18024]. DEVELOPMENT OF ADVANCED KILL**
2 **VEHICLE.**

3 Not later than 180 days after the date of the enact-
4 ment of this Act, the Director of the Missile Defense
5 Agency shall submit to the congressional defense commit-
6 tees a report that includes—

7 (1) a plan to provide that the new advanced kill
8 vehicle on the standard missile—3 block IIB inter-
9 ceptor shall have the capability of being used for the
10 ground-based midcourse defense program; and

11 (2) a description of the technology of and con-
12 cept behind applying the former multiple kill vehicle
13 concept to the new vehicle described in paragraph
14 (1).

1 **SEC. 223 [Log #18045]. MISSILE DEFENSE SITE ON THE EAST**
2 **COAST.**

3 (a) OPERATIONAL SITE.—The Secretary of Defense
4 shall ensure that a covered missile defense site on the East
5 Coast of the United States is operational by not later than
6 December 31, 2015.

7 (b) CONSIDERATION OF LOCATION.—

8 (1) STUDY.—Not later than December 31,
9 2013, the Secretary of Defense shall conduct a study
10 evaluating three possible locations selected by the
11 Director of the Missile Defense Agency for a covered
12 missile defense site on the East Coast of the United
13 States.

14 (2) EIS.—The Secretary shall prepare an envi-
15 ronmental impact statement in accordance with the
16 National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) for each location evaluated
18 under paragraph (1).

19 (c) PLAN.—

20 (1) IN GENERAL.—The Director of the Missile
21 Defense Agency shall develop a plan to deploy an
22 appropriate missile defense interceptor for a missile
23 defense site on the East Coast.

24 (2) MATTERS INCLUDED.—In developing the
25 plan under paragraph (1), the Director shall evalu-
26 ate the use of—

1 (A) two- or three-stage ground-based inter-
2 ceptors; and

3 (B) standard missile-3 interceptors, in-
4 cluding block IA, block IB, and for a later de-
5 ployment, block IIA or block IIB interceptors.

6 (3) SUBMISSION.—The Director shall submit to
7 the President the plan under paragraph (1) for in-
8 clusion with the budget materials submitted to Con-
9 gress under section 1105(a) of title 31, United
10 States Code, for fiscal year 2014.

11 (4) FUNDING.—Of the funds authorized to be
12 appropriated by this Act or otherwise made available
13 for fiscal year 2013 for the Missile Defense Agency,
14 \$100,000,000 may be obligated or expended to carry
15 out the plan developed under paragraph (1) after a
16 period of 30 days has elapsed following the date on
17 which the congressional defense committees receive
18 the plan pursuant to paragraph (3).

19 (d) COVERED MISSILE DEFENSE SITE.—In this sec-
20 tion, the term “covered missile defense site” means a mis-
21 sile defense site that uses—

22 (1) ground-based interceptors; or

23 (2) standard missile-3 interceptors.

1 **SEC. 224 [Log #18044]. GROUND-BASED MIDCOURSE DE-**
2 **FENSE SYSTEM.**

3 (a) GMD SYSTEM.—Of the funds authorized to be
4 appropriated by this Act or otherwise made available for
5 fiscal year 2013 for the Department of Defense, not less
6 than \$1,261,000,000 shall be made available for the
7 ground-based midcourse defense system, as specified in
8 the funding table in section 4201.

9 (b) CERTAIN PROGRAMS OF THE GMD SYSTEM.—

10 (1) EKV.—The Secretary of Defense shall com-
11 plete the refurbishment of the CE1 exoatmospheric
12 kill vehicle-equipped ground-based interceptors.

13 (2) MF-1.—Of the funds authorized to be ap-
14 propriated by this Act or otherwise made available
15 for fiscal year 2013 for the ground-based midcourse
16 defense system, not less than \$205,000,000 shall be
17 obligated or expended to upgrade Missile Field 1 at
18 Fort Greely, Alaska.

1 **SEC. 225 [Log #18048]. GROUND-BASED MIDCOURSE DE-**
2 **FENSE INTERCEPTOR TEST.**

3 Not later than December 31, 2013, the Secretary of
4 Defense shall conduct an intercontinental ballistic missile
5 test of the ground-based midcourse defense program using
6 a ground-based interceptor equipped with a CE1
7 exoatmospheric kill vehicle.

1 **SEC. 226 [Log #18023]. DEPLOYMENT OF SM-3 IIB INTERCEP-**
2 **TORS ON LAND AND SEA.**

3 (a) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that standard missile-3 block IIB interceptors
5 should be deployable in both land-based and sea-based
6 modes by the date on which such interceptors achieve ini-
7 tial operating capability.

8 (b) LAND AND SEA MODES.—The Secretary of De-
9 fense shall ensure that standard missile-3 block IIB inter-
10 ceptors are deployable using both land-based and sea-
11 based systems by the date on which such interceptors
12 achieve initial operating capability.

13 (c) REPORT.—

14 (1) FORCE STRUCTURE.—Not later than 180
15 days after the date of the enactment of this Act, the
16 Secretary shall submit to the congressional defense
17 committees a report on how the deployment of
18 standard missile-3 block IIB interceptors affects the
19 force structure of the Navy.

20 (2) MATTERS INCLUDED.—The report under
21 paragraph (1) shall include the following:

22 (A) The implications for the force struc-
23 ture of the Navy if standard missile-3 block
24 IIB interceptors cannot fit in the standard
25 vertical launching system configuration for the

1 Aegis ballistic missile defense system, including
2 the implications regarding—

3 (i) ship deployments;

4 (ii) cost; and

5 (iii) ability to respond to raids.

6 (B) An explanation for how standard mis-
7 sile-3 block IIB interceptors would be used, at
8 initial operating capability, for the defense of
9 the United States from threats originating in
10 the Pacific region if such interceptors are not
11 deployable in a sea-based mode, including an
12 explanation of cost and force structure require-
13 ments.

1 **SEC. 227 [Log #18041]. IRON DOME SHORT-RANGE ROCKET**
2 **DEFENSE PROGRAM.**

3 (a) AVAILABILITY OF FUNDS.—

4 (1) IN GENERAL.—Of the funds authorized to
5 be appropriated by section 201 for research, develop-
6 ment, test, and evaluation, Defense-wide, as speci-
7 fied in the funding table in section 4201, or other-
8 wise made available for the Department of Defense
9 for fiscal years 2012 through 2015, the Secretary of
10 Defense may provide up to \$680,000,000 to the
11 Government of Israel for the procurement of addi-
12 tional batteries and interceptors under the Iron
13 Dome short-range rocket defense system.

14 (2) AVAILABILITY.—Funds made available for
15 fiscal year 2012 or 2013 to carry out paragraph (1)
16 are authorized to remain available until September
17 30, 2014.

18 (b) OFFICE.—The Secretary of Defense shall estab-
19 lish within the Missile Defense Agency of the Department
20 of Defense an office to carry out subsection (a) and other
21 matters relating to assistance for Israel's Iron Dome
22 short-range rocket defense system.

23 **SEC. 228 [Log #18047]. SEA-BASED X-BAND RADAR.**

24 The Director of the Missile Defense Agency shall en-
25 sure that the sea-based X-band radar is maintained in a

- 1 status such that the radar may be deployed in less than
- 2 14 days and for at least 60 days each year.

1 **SEC. 229 [Log #17999]. PROHIBITION ON THE USE OF FUNDS**
2 **FOR THE MEADS PROGRAM.**

3 None of the funds authorized to be appropriated by
4 this Act or otherwise made available for fiscal year 2013
5 for the Department of Defense may be obligated or ex-
6 pended for the medium extended air defense system.

1 **SEC. 230 [Log #18016]. LIMITATION ON AVAILABILITY OF**
2 **FUNDS FOR PHASED, ADAPTIVE APPROACH**
3 **TO MISSILE DEFENSE IN EUROPE.**

4 (a) LIMITATION.—Of the funds authorized to be ap-
5 propriated by this Act or otherwise made available for fis-
6 cal year 2013 for covered missile defense activities, not
7 more than 25 percent may be obligated or expended
8 until—

9 (1) the Secretary of Defense and the Secretary
10 of State jointly submit to the appropriate congres-
11 sional committees—

12 (A) a report on the cost-sharing arrange-
13 ments for the phased, adaptive approach to
14 missile defense in Europe; and

15 (B) written certification that a propor-
16 tional share, as determined by the Secretaries,
17 of the costs for such approach to missile de-
18 fense will be provided by members of the North
19 Atlantic Treaty Organization other than the
20 United States; and

21 (2) the Secretary of Defense—

22 (A) submits a NATO prefinancing request
23 for consideration of expenses regarding such
24 approach to missile defense (excluding such ex-
25 penses related to military construction de-
26 scribed in section 2403(b)); and

1 (B) submits to the appropriate congres-
2 sional committees the response by the NATO
3 Secretary General or the North Atlantic Council
4 to such request.

5 (b) WAIVER.—The President may waive the limita-
6 tion in subsection (a) with respect to a specific project of
7 a covered missile defense activity if the President submits
8 to the appropriate congressional committees and the writ-
9 ten certification that the waiver for such project is vital
10 to the national security interests of the United States.

11 (c) DEFINITIONS.—In this section:

12 (1) The term “appropriate congressional com-
13 mittees” means the following:

14 (A) The congressional defense committees.

15 (B) The Committee on Foreign Affairs of
16 the House of Representatives and the Com-
17 mittee on Foreign Relations of the Senate.

18 (2) The term “covered missile defense activi-
19 ties” means, with respect to the phased, adaptive ap-
20 proach to missile defense in Europe, activities re-
21 garding—

22 (A) Aegis ashore sites; or

23 (B) an AN/TPY-2 radar located in Tur-
24 key.

1 **SEC. 231 [Log #18027]. LIMITATION ON AVAILABILITY OF**
2 **FUNDS FOR THE PRECISION TRACKING**
3 **SPACE SYSTEM.**

4 (a) INITIAL LIMITATION.—None of the funds author-
5 ized to be appropriated by this Act or otherwise made
6 available for fiscal year 2013 for the precision tracking
7 space system may be obligated or expended until the date
8 on which—

9 (1) a federally funded research and development
10 center begins the analysis under subsection (b)(1);
11 and

12 (2) the terms of reference for the analysis are
13 submitted to the congressional defense committees.

14 (b) ANALYSIS OF ALTERNATIVES.—

15 (1) FFRDC.—The Director of the Missile De-
16 fense Agency shall enter into an agreement with a
17 federally funded research and development center
18 that has not previously been involved with the preci-
19 sion tracking space system to conduct an analysis of
20 alternatives of such program.

21 (2) BASIS OF ANALYSIS.—The analysis under
22 paragraph (1) shall be based on a clear articulation
23 by the Director of—

24 (A) the ground-based sensors that will be
25 required to be maintained to aid the precision
26 tracking space system constellation;

1 (B) the number of satellites to be procured
2 for a first constellation, including the projected
3 lifetime of such satellites in the first constella-
4 tion, and the number projected to be procured
5 for a first and, if applicable, second replenish-
6 ment;

7 (C) the technological and acquisition risks
8 of such system;

9 (D) an evaluation of the technological ca-
10 pability differences between the precision track-
11 ing space system sensor and the space tracking
12 and surveillance system sensor; and

13 (E) the cost differences, as confirmed by
14 the Director of Cost Assessment and Program
15 Evaluation, between such systems, including
16 costs relating to launch services.

17 (3) ANALYSIS.—In conducting the analysis
18 under paragraph (1), the federally funded research
19 and development center shall—

20 (A) appoint a panel of independent study
21 leaders for such analysis;

22 (B) evaluate whether the precision tracking
23 space system, as planned by the Director in the
24 budget submitted to Congress under section
25 1105 of title 31, United States Code, for fiscal

1 year 2013, is the lowest cost sensor option with
2 respect to land-, air-, or space-based sensors, or
3 a combination thereof, to improve the homeland
4 missile defense of the United States, including
5 by adding discrimination capability to the
6 ground-based midcourse defense system;

7 (C) examine the overhead persistent infra-
8 red data or other data that is available as of
9 the date of the analysis that is not being used;

10 (D) determine how using the data de-
11 scribed in subparagraph (C) could improve sen-
12 sor coverage for the homeland missile defense of
13 the United States and regional missile defense
14 capabilities;

15 (E) study the plans of the Director to inte-
16 grate the precision tracking space system con-
17 cept into the ballistic missile defense system
18 and evaluate the concept or operations of such
19 use; and

20 (F) consider the agreement entered into
21 under subsection (d)(1).

22 (4) COST DETERMINATION.—In determining
23 costs under the analysis under paragraph (1), the
24 federally funded research and development center
25 shall take into account acquisition costs and oper-

1 ation and sustainment costs during the initial ten-
2 year and twenty-year periods.

3 (c) FURTHER LIMITATION.—

4 (1) SUBMITTAL AND WAIT.—Except as provided
5 by paragraph (2), none of the funds authorized to
6 be appropriated by this Act or otherwise made avail-
7 able for fiscal year 2013 for the precision tracking
8 space system may obligated or expended until—

9 (A) the Director submits to the congres-
10 sional defense committees the analysis under
11 subsection (b)(1); and

12 (B) a period of 60 days has elapsed fol-
13 lowing the date of such submittal.

14 (2) EXCEPTION.—The limitation in paragraph
15 (1) shall not apply to funds described in such para-
16 graph that are obligated or expended for technology
17 development activities.

18 (d) MEMORANDUM OF AGREEMENT.—

19 (1) IN GENERAL.—The Director shall enter into
20 a memorandum of agreement with the Commander
21 of the Air Force Space Command with respect to the
22 space situational awareness capabilities, require-
23 ments, design, and cost-sharing of the precision
24 tracking space system.

1 (2) SUBMITTAL.—The Director shall submit to
2 the congressional defense committees the agreement
3 entered into under paragraph (1).

1 **SEC. 232 [Log #18050]. PLAN TO IMPROVE DISCRIMINATION**
2 **AND KILL ASSESSMENT CAPABILITY OF BAL-**
3 **LISTIC MISSILE DEFENSE SYSTEMS.**

4 (a) PLAN.—The Director of the Missile Defense
5 Agency shall develop a plan to improve the discrimination
6 and kill assessment capability of ballistic missile defense
7 systems, particularly with respect to the ground-based
8 midcourse defense system.

9 (b) SUBMISSION.—Not later than December 31,
10 2012, the Director shall—

11 (1) transmit to the Secretary of Defense the
12 plan under subsection (a) to be used in the budget
13 materials submitted to the President by the Sec-
14 retary in connection with the submission to Con-
15 gress, pursuant to section 1105 of title 31, United
16 States Code, of the budget for fiscal year 2014; and

17 (2) submit to the congressional defense commit-
18 tees such plan.

1 **SEC. 233 [Log #18049]. PLAN TO INCREASE RATE OF FLIGHT**
2 **TESTS OF GROUND-BASED MIDCOURSE DE-**
3 **FENSE SYSTEM.**

4 (a) PLAN.—

5 (1) IN GENERAL.—The Director of the Missile
6 Defense Agency shall develop a plan to increase the
7 rate of flight tests and ground tests of the ground-
8 based midcourse defense system.

9 (2) RATE OF PLANNED FLIGHT TESTS.—The
10 plan under paragraph (1) shall ensure that there are
11 at least three flight tests conducted during every
12 two-year period unless the Director submits to the
13 congressional defense committees—

14 (A) written certification that such rate of
15 tests is not feasible or cost-effective; and

16 (B) an analysis explaining the reasoning of
17 such certification.

18 (b) SUBMISSION.—Not later than December 31,
19 2012, the Director shall—

20 (1) transmit to the Secretary of Defense the
21 plan under subsection (a)(1) to be used in the budg-
22 et materials submitted to the President by the Sec-
23 retary in connection with the submission to Con-
24 gress, pursuant to section 1105 of title 31, United
25 States Code, of the budget for fiscal year 2014; and

- 1 (2) submit to the congressional defense commit-
- 2 tees such plan.

1 **SEC. 234 [Log #18039]. REPORT ON REGIONAL MISSILE DE-**
2 **FENSE ARCHITECTURES.**

3 Not later than 90 days after the date of the enact-
4 ment of this Act, the Secretary of Defense, in coordination
5 with the Chairman of the Joint Chiefs of Staff, shall sub-
6 mit to the congressional defense committees a report on—

7 (1) the regional missile defense architectures,
8 including the force structure and inventory require-
9 ments derived from such architectures; and

10 (2) the comprehensive force management proc-
11 ess to evaluate such requirements, including the ca-
12 pability, deployment, and resource outcomes that
13 such process has determined.

1 **SEC. 913 [Log # 18077]. ANNUAL ASSESSMENT OF THE SYN-**
2 **CHRONIZATION OF SEGMENTS IN SPACE PRO-**
3 **GRAMS THAT ARE MAJOR DEFENSE ACQUISSI-**
4 **TION PROGRAMS.**

5 (a) ANNUAL ASSESSMENT.—Not later than 180 days
6 after the date of the enactment of this Act, and annually
7 thereafter for five years, the Under Secretary of Defense
8 for Acquisition, Technology, and Logistics shall annually
9 submit to the congressional defense committees an assess-
10 ment of the synchronization of the operability of the pro-
11 gram segments of each space program that is a major de-
12 fense acquisition program.

13 (b) CONTENTS.—Each assessment required under
14 subsection (a) shall include—

15 (1) a description of the intended primary capa-
16 bilities of each space program that is a major de-
17 fense acquisition program and the level of operability
18 of each program segment of such space program at
19 the time of such assessment;

20 (2) a schedule for the deployment of such in-
21 tended primary capabilities of such space program in
22 each such program segment and in such space pro-
23 gram as a whole;

24 (3) for each such space program for which a
25 primary capability of such program will be operable
26 by one program segment at least one year after the

1 date on which such capability is operable by another
2 program segment—

3 (A) an explanation of the reasons that
4 such primary capability will be operable by one
5 program segment at least one year after the
6 date such capability is operable by another pro-
7 gram segment; and

8 (B) an identification of the steps the De-
9 partment is taking to improve the alignment of
10 when the program segments become operable
11 and the related challenges, costs, and risks; and

12 (4) a description of the impact on the mission
13 of such space program caused by such primary capa-
14 bility being operable by one program segment at
15 least one year after the date such capability is oper-
16 able by another program segment.

17 (c) DEFINITIONS.—In this section:

18 (1) MAJOR DEFENSE ACQUISITION PROGRAM
19 DEFINED.—The term “major defense acquisition
20 program” has the meaning given the term in section
21 2430 of title 10, United States Code.

22 (2) PROGRAM SEGMENT.—The term “program
23 segment” means, with respect to a space program
24 that is a major defense acquisition program, the fol-
25 lowing segments:

1 (A) The portion of such program that is
2 satellite-based.

3 (B) The portion of such program that is
4 ground-based.

5 (C) The portion of such program that is
6 operated by the end-user.

1 **SEC. 954 [Log # 21537]. REPORT ON OVERHEAD PERSISTENT**
2 **INFRARED TECHNOLOGY.**

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

5 (1) there are significant investments in over-
6 head persistent infrared technology that span mul-
7 tiple agencies and support a variety of missions, in-
8 cluding missile warning, missile defense, battle space
9 awareness, and technical intelligence; and

10 (2) further efforts should be made to fully ex-
11 ploit overhead persistent infrared sensor data.

12 (b) REPORT.—Not later than 270 days after the date
13 of the enactment of this Act, the Secretary of Defense,
14 in consultation with the Director of National Intelligence,
15 shall submit to the congressional defense committees, the
16 Permanent Select Committee on Intelligence of the House
17 of Representatives, and the Select Committee on Intel-
18 ligence of the Senate a report on overhead persistent infra-
19 red technology that includes—

20 (1) an assessment of whether there are further
21 opportunities for the Department of Defense and the
22 intelligence community (as defined in section 3(4) of
23 the National Security Act of 1947 (50 U.S.C.
24 401a(4))) to capitalize on increased data sharing,
25 fusion, interoperability, and exploitation; and

1 (2) recommendations on how to better coordi-
2 nate the efforts by the Department and the intel-
3 ligence community to exploit overhead persistent in-
4 frared sensor data.

5 (c) COMPTROLLER GENERAL ASSESSMENT.—Not
6 later than 90 days after the date on which the Secretary
7 of Defense submits the report required under subsection
8 (b), the Comptroller General of the United States shall
9 submit to the congressional defense committees an assess-
10 ment of the report required under subsection (b), includ-
11 ing—

12 (1) an assessment of whether such report is
13 comprehensive, fully supported, and sufficiently de-
14 tailed; and

15 (2) an identification of any shortcomings, limi-
16 tations, or other reportable matters that affect the
17 quality or findings of the report required under sub-
18 section (b).

1 **SEC. 1042 [Log #23845]. NUCLEAR WEAPONS EMPLOYMENT**
2 **STRATEGY OF THE UNITED STATES.**

3 (a) SENSE OF CONGRESS.—Subsection (a) of section
4 1046 of the National Defense Authorization Act for Fiscal
5 Year 2012 (Public Law 112–81; 125 Stat. 1579) is
6 amended to read as follows:

7 “(a) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that—

9 “(1) any future modification to the nuclear
10 weapons employment strategy, plans, and options of
11 the United States should maintain or enhance the
12 ability of the nuclear forces of the United States to
13 support the goals of the United States with respect
14 to nuclear deterrence, extended deterrence, and as-
15 surances for allies, and the defense of the United
16 States; and

17 “(2) the oversight responsibility of Congress in-
18 cludes oversight of the nuclear weapons employment
19 strategy, plans, and options of the United States
20 and that therefore the Chairmen and Ranking Mem-
21 bers of the Committees on Armed Services of the
22 Senate and House of Representatives, and such pro-
23 fessional staff as they designate, should have access
24 to the nuclear weapons employment strategy, plans,
25 and options of the United States.”.

1 (b) REPORTS ON STRATEGY.—Section 494 of title
2 10, United States Code, as redesignated by [section
3 1041(b)(2)(A)(ii)(III)] is amended—

4 (1) in the heading, by inserting “**weapons**”
5 after “**Nuclear**”;

6 (2) by striking “nuclear employment strategy”
7 each place it appears and inserting “nuclear weap-
8 ons employment strategy”;

9 (3) in paragraph (1)—

10 (A) by inserting “the” after “modifications
11 to”; and

12 (B) by inserting “, plans, and options”
13 after “employment strategy”;

14 (4) by inserting after paragraph (3) the fol-
15 lowing new paragraph:

16 “(4) the extent to which such modifications in-
17 clude an increased reliance on conventional or non-
18 nuclear global strike capabilities or missile defenses
19 of the United States.”;

20 (5) by striking “On the date” and inserting
21 “(a) REPORTS.—On the date”; and

22 (6) by adding at the end the following new sub-
23 section:

24 “(b) ANNUAL BRIEFINGS.—Not later than March 15
25 of each year, the Secretary of Defense shall provide to the

1 congressional defense committees a briefing regarding the
2 nuclear weapons employment strategy, plans, and options
3 of the United States.”.

1 **SEC. 1043 [Log #24629]. INTERAGENCY COUNCIL ON THE**
2 **STRATEGIC CAPABILITY OF THE NATIONAL**
3 **LABORATORIES.**

4 (a) ESTABLISHMENT.—Chapter 7 of title 10, United
5 States Code, is amended by adding at the end the fol-
6 lowing new section:

7 **“§ 188. Interagency Council on the Strategic Capa-**
8 **bility of the National Laboratories**

9 “(a) ESTABLISHMENT.—There is an Interagency
10 Council on the Strategic Capability of the National Lab-
11 oratories (in this section referred to as the ‘Council’).

12 “(b) MEMBERSHIP.—The membership of the Council
13 is comprised of the following:

14 “(1) The Secretary of Defense.

15 “(2) The Secretary of Energy.

16 “(3) The Secretary of Homeland Security.

17 “(4) The Director of National Intelligence.

18 “(5) The Administrator for Nuclear Security.

19 “(6) Such other officials as the President con-
20 siders appropriate.

21 “(c) STRUCTURE AND PROCEDURES.—The President
22 may determine the chair, structure, staff, and procedures
23 of the Council.

24 “(d) RESPONSIBILITIES.—The Council shall be re-
25 sponsible for the following matters:

1 “(1) Identifying and considering the science,
2 technology, and engineering capabilities of the na-
3 tional laboratories that could be leveraged by each
4 participating agency to support national security
5 missions.

6 “(2) Reviewing and assessing the adequacy of
7 the national security science, technology, and engi-
8 neering capabilities of the national laboratories for
9 supporting national security missions throughout the
10 Federal Government.

11 “(3) Establishing and overseeing means of en-
12 suring that—

13 “(A) capabilities identified by the Council
14 under paragraph (1) are sustained to an appro-
15 priate level; and

16 “(B) each participating agency provides
17 the appropriate level of institutional support to
18 sustain such capabilities.

19 “(4) In accordance with acquisition rules re-
20 garding federally funded research and development
21 centers, establishing criteria for when each partici-
22 pating agency should seek to use the services of the
23 national laboratories, including the identification of
24 appropriate mission areas and capabilities.

1 “(5) Making recommendations to the President
2 and Congress regarding regulatory or statutory
3 changes needed to better support—

4 “(A) the strategic capabilities of the na-
5 tional laboratories; and

6 “(B) the use of such laboratories by each
7 participating agency.

8 “(6) Other actions the Council considers appro-
9 priate with respect to—

10 “(A) the sustainment of the national lab-
11 oratories; and

12 “(B) the use of the strategic capabilities of
13 such laboratories.

14 “(e) STREAMLINED PROCESS.—With respect to the
15 participating agency for which a member of the Council
16 is the head of, each member of the Council shall—

17 “(1) establish processes to streamline the con-
18 sideration and approval of procuring the services of
19 the national laboratories on appropriate matters;
20 and

21 “(2) ensure that such processes are used in ac-
22 cordance with the criteria established under sub-
23 section (d)(4).

24 “(f) DEFINITIONS.—In this section:

1 “(1) The term ‘participating agency’ means a
2 department or agency of the Federal Government
3 that is represented on the Council by a member
4 under subsection (b).

5 “(2) The term ‘national laboratories’ means—

6 “(A) each national security laboratory (as
7 defined in section 3281(1) of the National Nu-
8 clear Security Administration Act (50 U.S.C.
9 2471(1))); and

10 “(B) each national laboratory of the De-
11 partment of Energy.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of such chapter is amended by adding
14 after the item relating to section 187 the following new
15 item:

 “188. Interagency Council on the Strategic Capability of the National Labora-
 tories.”.

16 (c) REPORT.—

17 (1) IN GENERAL.—Not later than July 1, 2013,
18 the Interagency Council on the Strategic Capability
19 of the National Laboratories under section 188 of
20 title 10, United States Code, as added by subsection
21 (a), shall submit to the appropriate congressional
22 committees a report describing and assessing the fol-
23 lowing:

1 (A) The actions taken to implement the re-
2 quirements of such section 188 and the charter
3 titled “Governance Charter for an Interagency
4 Council on the Strategic Capability of DOE Na-
5 tional Laboratories as National Security As-
6 sets” signed by the Secretary of Defense, the
7 Secretary of Energy, the Secretary of Home-
8 land Security, and the Director of National In-
9 telligence in July 2010.

10 (B) The effectiveness of the Council in ac-
11 complishing the purpose and objectives of such
12 section and such Charter.

13 (C) Efforts to strengthen work-for-others
14 programs at the national laboratories.

15 (D) Efforts to make work-for-others oppor-
16 tunities more cost-effective.

17 (E) Ongoing and planned measures for in-
18 creasing cost-sharing and institutional support
19 investments from other agencies.

20 (F) Any regulatory or statutory changes
21 recommended to improve the ability of such
22 other agencies to leverage expertise and capa-
23 bilities at such laboratories.

1 (2) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—In this subsection, the term “appropriate
3 congressional committees” means the following:

4 (A) The congressional defense committees.

5 (B) The Committee on Energy and Com-
6 merce of the House of Representatives and the
7 Committee on Energy and Natural Resources of
8 the Senate.

9 (C) The Committee on Homeland Security
10 of the House of Representatives and the Com-
11 mittee on Homeland Security and Govern-
12 mental Affairs of the Senate.

13 (D) The Committee on Science, Space, and
14 Technology of the House of Representatives
15 and the Committee on Commerce, Science, and
16 Transportation of the Senate.

17 (E) The Permanent Select Committee on
18 Intelligence of the House of Representatives
19 and the Select Committee on Intelligence of the
20 Senate.

21 (d) CONSTRUCTION.—Nothing in section 188 of title
22 10, United States Code, as added by subsection (a), shall
23 be construed to limit section 309 of the Homeland Secu-
24 rity Act of 2002 (6 U.S.C. 189).

1 **SEC. 1045 [Log #18055]. REPORT ON CAPABILITY OF CON-**
2 **VENTIONAL AND NUCLEAR FORCES AGAINST**
3 **CERTAIN TUNNEL SITES.**

4 (a) REPORT.—Not later than one year after the date
5 of the enactment of this Act, the Commander of the
6 United States Strategic Command shall submit to the ap-
7 propriate congressional committees a report on the under-
8 ground tunnel network used by the People’s Republic of
9 China with respect to the capability of the United States
10 to use conventional and nuclear forces to neutralize such
11 tunnels and what is stored within such tunnels.

12 (b) FORM.—The report under subsection (a) shall be
13 submitted in unclassified form, but may include a classi-
14 fied annex.

15 (c) APPROPRIATE CONGRESSIONAL COMMITTEES.—
16 In this section, the term “appropriate congressional com-
17 mittees” means the following:

18 (1) The congressional defense committees.

19 (2) The Committee on Foreign Affairs of the
20 House of Representatives and the Committee on
21 Foreign Relations of the Senate.

1 **Subtitle B—Program Authoriza-**
2 **tions, Restrictions, and Limita-**
3 **tions**

4 **SEC. 3111 [Log #18008]. AUTHORIZED PERSONNEL LEVELS**
5 **OF THE OFFICE OF THE ADMINISTRATOR.**

6 (a) CAP ON FULL-TIME EQUIVALENT POSITIONS.—

7 (1) IN GENERAL.—The National Nuclear Secu-
8 rity Administration Act (50 U.S.C. 2401 et seq.) is
9 amended by inserting after section 3241 the fol-
10 lowing new section:

11 **“SEC. 3241A. AUTHORIZED PERSONNEL LEVELS OF THE OF-**
12 **FICE OF THE ADMINISTRATOR.**

13 “(a) FULL-TIME EQUIVALENT PERSONNEL LEV-
14 ELS.—(1) Beginning 180 days after the date of the enact-
15 ment of this section, the total number of employees of the
16 Office of the Administrator of the Administration may not
17 exceed 1,300.

18 “(2) Beginning October 1, 2013, the total number
19 of employees of the Office of the Administrator may not
20 exceed 1,000.

21 “(3) Beginning October 1, 2014, the total number
22 of employees of the Office of the Administrator may not
23 exceed 800.

24 “(b) COUNTING RULE.—(1) A determination of the
25 number of employees in the Office of the Administrator

1 under subsection (a) shall be expressed on a full-time
2 equivalent basis.

3 “(2) Except as provided by paragraph (3), in deter-
4 mining the total number of employees in the Office of the
5 Administrator under subsection (a), the Administrator
6 shall count each employee of the Office without regard to
7 whether the employee is located at the headquarters of the
8 Administration, a site office of the Administration, a serv-
9 ice or support center of the Administration, or any other
10 location.

11 “(3) The following employees may not be counted for
12 purposes of determining the total number of employees in
13 the Office of the Administrator under subsection (a):

14 “(A) Employees of the Office of Naval Reac-
15 tors.

16 “(B) Employees of the Office of Secure Trans-
17 portation.

18 “(C) Members of the Armed Forces detailed to
19 the Administration.

20 “(c) VOLUNTARY EARLY RETIREMENT.—In accord-
21 ance with section 3523 of title 5, United States Code, the
22 Administrator may offer voluntary separation or retire-
23 ment incentives to meet the total number of employees au-
24 thorized under subsection (a).

1 “(d) WORK PLACEMENT PROGRAM.—The Adminis-
2 trator shall establish a work placement program to assist
3 employees of the Administration who are separated from
4 service pursuant to this section find new employment.”.

5 (2) CLERICAL AMENDMENT.—The table of con-
6 tents at the beginning of the National Nuclear Secu-
7 rity Administration Act is amended by inserting
8 after the item relating to section 3241 the following
9 new item:

“Sec. 3241A. Authorized personnel levels of the Office of the Administrator.”.

10 (b) INCREASE IN EXCEPTED POSITIONS.—Section
11 3241 of the National Nuclear Security Administration Act
12 (50 U.S.C. 2441) is amended by striking “300” and in-
13 serting “450”.

14 (c) REPORTS.—Not later than January 31 of each
15 of 2013, 2014, and 2015, the Administrator for Nuclear
16 Security shall submit to the congressional defense commit-
17 tees a report on implementing section 3241A of the Na-
18 tional Nuclear Security Administration Act, as added by
19 subsection (a), and section 3241 of such Act, as amended
20 by subsection (b).

1 **SEC. 3112 [Log #18059]. BUDGET JUSTIFICATION MATE-**
2 **RIALS.**

3 Section 3251(b) of the National Nuclear Security Ad-
4 ministration Act (50 U.S.C. 2451) is amended—

5 (1) by striking “In the” and inserting “(1) In
6 the”; and

7 (2) by adding at the end the following new
8 paragraph:

9 “(2) In the budget justification materials submitted
10 to Congress in support of each such budget, the Adminis-
11 trator shall include an assessment of how the budget
12 maintains the core nuclear weapons skills of the Adminis-
13 tration, including nuclear weapons design, engineering,
14 production, testing, and prediction of stockpile aging.”.

1 **SEC. 3113 [Log #18007]. CONTRACTOR GOVERNANCE, OVER-**
2 **SIGHT, AND ACCOUNTABILITY.**

3 (a) OVERSIGHT OF CONTRACTORS.—

4 (1) IN GENERAL.—The National Nuclear Secu-
5 rity Administration Act (50 U.S.C. 2401 et seq.) is
6 amended by adding after section 3264 the following
7 new section:

8 **“SEC. 3265. CONTRACTOR GOVERNANCE, OVERSIGHT, AND**
9 **ACCOUNTABILITY.**

10 “(a) PERFORMANCE-BASED CONTRACTOR GOVERN-
11 ANCE, MANAGEMENT, AND OVERSIGHT.—(1) The Admin-
12 istrator shall establish a system of governance, manage-
13 ment, and oversight of covered contractors.

14 “(2) The system established under paragraph (1)
15 shall—

16 “(A) include clear, consistent, and auditable
17 performance-based standards relating to the mission
18 effectiveness and operations of a covered contractor;

19 “(B) ensure that the governance, management,
20 and oversight of the mission effectiveness and oper-
21 ations of a covered contractor is conducted pursuant
22 to national and international standards and best
23 practices;

24 “(C) recognize the respective roles of —

25 “(i) the Federal Government in deter-
26 mining the performance-based standards with

1 respect to high-level mission and operations per-
2 formance objectives; and

3 “(ii) a covered contractor, particularly a
4 contractor that is a federally funded research
5 and development corporation, in determining
6 how to accomplish such objectives;

7 “(D) conduct oversight based on outcomes and
8 performance-based standards rather than detailed,
9 transaction-based oversight; and

10 “(E) include appropriate measures to ensure
11 that the Administrator has accurate and consistent
12 data and information to manage and make decisions
13 with respect to the nuclear security enterprise.

14 “(3)(A) The Administrator may exempt individual
15 areas of governance, management, and oversight from the
16 requirements of the system established under paragraph
17 (1).

18 “(B) If the Administrator makes an exemption under
19 subparagraph (A), the Administrator shall annually sub-
20 mit to the congressional defense committees a certification
21 for each such exemption, including a description of why
22 such exemption is needed.

23 “(b) CONTRACTOR ACCOUNTABILITY.—The Adminis-
24 trator shall—

1 “(1) ensure that each management and oper-
2 ating contract includes robust mechanisms to ensure
3 the accountability of a covered contractor; and

4 “(2) exercise such mechanisms as the Adminis-
5 trator determines appropriate to ensure the perform-
6 ance of the covered contractor.

7 “(c) OVERSIGHT BY OTHER AGENCIES.—(1) The Ad-
8 ministrators shall ensure that any oversight activity per-
9 formed by a Federal agency, including the Department of
10 Energy, with respect to a covered contractor is conducted
11 in accordance with the system established under sub-
12 section (a)(1), in addition to any other requirements es-
13 tablished by law.

14 “(2) If the Administrator determines that a Federal
15 agency is not conducting oversight activities in accordance
16 with the system established under subsection (a)(1), the
17 Administrator shall notify the congressional defense com-
18 mittees of such activity not later than 30 days after the
19 date on which the Administrator makes such determina-
20 tion.

21 “(d) DEFINITIONS.—In this section:

22 “(1) The term ‘covered contractor’ means a
23 contractor who enters into a management and oper-
24 ating contract.

1 “(2) The term ‘management and operating con-
2 tract’ means a contract entered into by the Adminis-
3 trator and a contractor to manage and operate a
4 Government-owned, contractor-operated facility.

5 “(3) The term ‘performance-based standards’,
6 with respect to a covered contract, means that the
7 contract includes the use of performance work state-
8 ments that set forth contract requirements in clear,
9 specific, and objective terms with measurable out-
10 comes.”.

11 (2) CLERICAL AMENDMENT.—The table of con-
12 tents at the beginning of the National Nuclear Secu-
13 rity Administration Act is amended by inserting
14 after the item relating to section 3264 the following
15 new item:

“Sec. 3265. Contractor governance, oversight, and accountability.”.

16 (b) REPORTS.—Not later than January 15, 2013,
17 and each year thereafter through 2016, the Administrator
18 shall submit to the congressional defense committees a re-
19 port that includes—

20 (1) a description of each instance during the
21 previous calendar year in which the Administrator,
22 or any other head of an agency of the Federal Gov-
23 ernment, used a procedure, standard, or process for
24 governance, management, and oversight of a covered
25 contract (as defined in section 3265(d)(1) of the Na-

1 tional Nuclear Security Administration Act, as
2 added by subsection (a)(1)) that is not a procedure,
3 standard, or process that conforms to national or
4 international standards or industry best practices;

5 (2) an explanation of why such procedure,
6 standard, or process was used during such year and
7 any steps that will be taken by the Administrator or
8 other head of an agency, as the case may be, in fu-
9 ture years to instead use a procedure, standard, or
10 process that conforms to national or international
11 standards or industry best practices; and

12 (3) a description of any oversight activities by
13 any agency of the Federal Government that occurred
14 during the previous calendar year that the Adminis-
15 trator considers duplicative or unnecessary.

1 **SEC. 3114 [Log #18000]. NATIONAL NUCLEAR SECURITY AD-**
2 **MINISTRATION COUNCIL.**

3 (a) NNSA COUNCIL.—Section 4102 of the Atomic
4 Energy Defense Act (50 U.S.C. 2512) is amended to read
5 as follows:

6 **“SEC. 4102. MANAGEMENT STRUCTURE FOR NUCLEAR SE-**
7 **CURITY ENTERPRISE.**

8 “(a) IN GENERAL.—The Administrator shall estab-
9 lish a management structure for the nuclear security en-
10 terprise in accordance with the National Nuclear Security
11 Administration Act (50 U.S.C. 2401 et seq.).

12 “(b) NATIONAL NUCLEAR SECURITY ADMINISTRA-
13 TION COUNCIL.—(1) The Administrator shall establish a
14 council to be known as the ‘National Nuclear Security Ad-
15 ministration Council’. The Council may advise the Admin-
16 istrator on scientific and technical issues relating to policy
17 matters, operational concerns, strategic planning, and the
18 development of priorities relating to the mission and oper-
19 ations of the Administration and the nuclear security en-
20 terprise.

21 “(2) The Council shall be composed of the directors
22 of the national security laboratories and the nuclear weap-
23 ons production facilities.

24 “(3) The Council may provide the Administrator or
25 the Secretary of Energy recommendations for improving
26 the—

1 “(A) governance, management, effectiveness,
2 and efficiency of the Administration; and

3 “(B) any other matter in accordance with para-
4 graph (1).

5 “(4) Not later than 60 days after the date on which
6 any recommendation under paragraph (3) is received, the
7 Administrator or the Secretary, as the case may be, shall
8 respond to the Council with respect to whether such rec-
9 ommendation will be implemented and the reasoning for
10 implementing or not implementing such recommenda-
11 tion.”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 at the beginning of the Atomic Energy Defense Act is
14 amended by striking the item relating to section 4102 and
15 inserting the following new item:

“Sec. 4102. Management structure for nuclear security enterprise.”.

1 **SEC. 3115 [Log # 18011]. SAFETY, HEALTH, AND SECURITY OF**
2 **THE NATIONAL NUCLEAR SECURITY ADMIN-**
3 **ISTRATION.**

4 (a) SECURITY OF ASSETS AND INFORMATION.—

5 (1) IN GENERAL.—Section 3231 of the Na-
6 tional Nuclear Security Administration Act (50
7 U.S.C. 2421) is amended to read as follows:

8 **“SEC. 3231. PROTECTION OF SPECIAL NUCLEAR MATERIAL**
9 **AND NATIONAL SECURITY INFORMATION.**

10 “(a) POLICIES AND PROCEDURES REQUIRED.—The
11 Administrator shall establish policies and procedures to
12 ensure the protection of—

13 “(1) special nuclear material and other sensitive
14 physical assets of the Administration; and

15 “(2) classified information in the possession of
16 the Administration.

17 “(b) PROMPT REPORTING.—The Administrator shall
18 establish procedures to ensure prompt reporting to the Ad-
19 ministrator of any significant problem, abuse, violation of
20 law or Executive order, or deficiency relating to the—

21 “(1) protection of the special nuclear material
22 and other sensitive physical assets of the Adminis-
23 tration; and

24 “(2) management of classified information by
25 personnel of the Administration.”.

1 ducting oversight of such occupational safety and health
2 standards by any Federal agency, the Administrator shall
3 ensure that such complying and oversight is conducted—

4 “(A) in accordance with best industry and Gov-
5 ernment practices for meeting such standards; and

6 “(B) in accordance with the performance-based
7 system of governance, management, and oversight
8 established under section 3265.

9 “(3) The Administrator may not establish or pre-
10 scribe any order, rule, or regulation regarding occupa-
11 tional safety and health unless such order, rule, or regula-
12 tion is pursuant to an occupational safety and health
13 standard described in paragraph (1).”; and

14 (D) by adding after subsection (c), as
15 added by subparagraph (C), the following new
16 subsection:

17 “(d) NUCLEAR HEALTH AND SAFETY.—(1) In car-
18 rying out this section with respect to nuclear operations,
19 the Administrator shall prescribe appropriate policies and
20 regulations to ensure that risks to the health and safety
21 of the employees of the Administration, contractors of the
22 Administration, and the general public from such nuclear
23 operations are as low as practicable and that adequate
24 protection is provided.

1 “(2) With respect to prescribing and complying with
2 the policies and regulations under paragraph (1), and con-
3 ducting oversight of such policies and regulations by any
4 Federal agency, the Administrator shall ensure that such
5 prescribing, complying, and oversight is conducted in ac-
6 cordance with the performance-based system of govern-
7 ance, management, and oversight established under sec-
8 tion 3265.”.

9 (2) NUCLEAR HEALTH AND SAFETY EFFECTIVE
10 DATE.—The amendment made by paragraph (1)(D)
11 shall take effect October 1, 2013.

12 (c) REPORT ON AUTHORITY FOR NUCLEAR SAFE-
13 TY.—Not later than March 1, 2013, the Administrator
14 shall submit to the congressional defense committees a re-
15 port that includes—

16 (1) an implementation plan describing the ac-
17 tions needed to fully transition the policy, regu-
18 latory, and oversight authority for the nuclear safety
19 of the nuclear security enterprise from the Depart-
20 ment of Energy to the Administration; and

21 (2) a description of the costs and benefits of
22 such a transition.

1 **SEC. 3116 [Log #18058]. DESIGN AND USE OF PROTOTYPES**
2 **OF NUCLEAR WEAPONS.**

3 (a) PROTOTYPES.—The Atomic Energy Defense Act
4 (50 U.S.C. 2501 et seq.) is amended by inserting after
5 section 4508 the following new section:

6 **“SEC. 4509. DESIGN AND USE OF PROTOTYPES OF NUCLEAR**
7 **WEAPONS FOR INTELLIGENCE PURPOSES.**

8 “(a) PROTOTYPES.—The Administrator shall develop
9 and carry out a plan for the national security laboratories
10 and nuclear weapons production plants to design and build
11 prototypes of nuclear weapons to further intelligence esti-
12 mates with respect to foreign nuclear weapons activities.

13 “(b) PROHIBITION ON PRODUCTION OF NUCLEAR
14 YIELDS.—In carrying out subsection (a), the Adminis-
15 trator may not conduct any experiments that produce a
16 nuclear yield.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 at the beginning of the Atomic Energy Defense Act is
19 amended by inserting after the item relating to section
20 4508 the following new item:

“Sec. 4509. Design and use of prototypes of nuclear weapons for intelligence purposes.”.

1 **SEC. 3117 [Log #24628]. IMPROVEMENT AND STREAMLINING**
2 **OF THE MISSIONS AND OPERATIONS OF THE**
3 **DEPARTMENT OF ENERGY AND NATIONAL**
4 **NUCLEAR SECURITY ADMINISTRATION.**

5 (a) IN GENERAL.—Not later than 90 days after the
6 date of the enactment of this Act, the Secretary of Energy
7 and the Administrator for Nuclear Security, in coordina-
8 tion with the Secretary of Defense and other officials, as
9 the Secretary of Energy and the Administrator consider
10 appropriate, shall revise the Department of Energy Acqui-
11 sition Regulation and other regulations, rules, directives,
12 orders, and policies that apply to the administration, exe-
13 cution, and oversight of the missions and operations of
14 the Department of Energy and the National Nuclear Se-
15 curity Administration to improve and streamline such ad-
16 ministration, execution, and oversight.

17 (b) IMPROVEMENT AND STREAMLINING.—In carrying
18 out subsection (a), the Secretary of Energy and the Ad-
19 ministrator for Nuclear Security shall—

20 (1) streamline business processes and struc-
21 tures to reduce unnecessary, burdensome, or dupli-
22 cative approvals;

23 (2) delegate approval for work for others agree-
24 ments and cooperative research and development
25 agreements (except those that the Secretary or Ad-
26 ministrator determine are high value or unique) to

1 the management and operating contractors of a Gov-
2 ernment-owned, contractor-operated facility of the
3 Department or Administration and hold such con-
4 tractors accountable for maintaining appropriate
5 portfolios with respect to such agreements;

6 (3) establish processes for ensuring routine or
7 low-risk procurement and subcontracting decisions
8 are made at the discretion of the management and
9 operating contractors while ensuring that the Sec-
10 retary or Administrator apply appropriate oversight;

11 (4) assess procurement thresholds as of the
12 date of the enactment of this Act and take steps as
13 appropriate to adjust such thresholds;

14 (5) eliminate duplicative or low-value reports
15 and data calls and ensure consistency in manage-
16 ment and cost accounting data; and

17 (6) otherwise streamline, clarify, and eliminate
18 redundancy in the regulations, rules, directives, or-
19 ders, and policies described by subsection (a).

20 (c) BRIEFING.—

21 (1) IN GENERAL.—Not later than 120 days
22 after the date of the enactment of this Act, the Sec-
23 retary and the Administrator shall provide to the ap-
24 propriate congressional committees a briefing on the

1 regulations, rules, directives, orders, and policies im-
2 proved and streamlined pursuant to subsection (a).

3 (2) APPROPRIATE COMMITTEES DEFINED.—In
4 this subsection, the term “appropriate congressional
5 committees” means—

6 (A) the congressional defense committees;
7 and

8 (B) the Committee on Energy and Natural
9 Resources of the Senate and the Committee on
10 Energy and Commerce of the House of Rep-
11 resentatives.

1 **SEC. 3118 [Log #24627]. COST-BENEFIT ANALYSES FOR COM-**
2 **PETITION OF MANAGEMENT AND OPERATING**
3 **CONTRACTS.**

4 (a) LIMITATION.—The Administrator for Nuclear Se-
5 curity may not release a final request for proposal for com-
6 petition of any contract to manage and operate a facility
7 of the National Nuclear Security Administration until the
8 date on which the Administrator submits to the congres-
9 sional defense committees a report described in subsection
10 (b).

11 (b) REPORT DESCRIBED.—A report described in this
12 subsection is a report on a request for proposal for com-
13 petition described in subsection (a) that includes—

14 (1) the expected cost savings resulting from the
15 competition over the life of the contract;

16 (2) the costs of the competition, including im-
17 mediate costs of conducting the competition and any
18 increased costs over the life of the contract;

19 (3) a description of—

20 (A) any disruption or delay in mission ac-
21 tivities or deliverables resulting from the com-
22 petition; and

23 (B) any benefits of the proposed competi-
24 tion to mission performance or operations;

25 (4) how the competition complies with the Fed-
26 eral Acquisition Regulation regarding federally fund-

1 ed research and development centers, if applicable;
2 and

3 (5) any other matters the Administrator con-
4 siders appropriate.

5 (c) GAO REVIEW.—Not later than 90 days after each
6 report is submitted to the congressional defense commit-
7 tees under subsection (a) or (d)(2), the Comptroller Gen-
8 eral of the United States shall submit to such committees
9 a review of such report.

10 (d) APPLICABILITY.—

11 (1) IN GENERAL.—The limitation in subsection
12 (a) shall apply with respect to a request for proposal
13 described by such subsection that is released by the
14 Administrator for Nuclear Security during fiscal
15 years 2012 through 2017.

16 (2) FISCAL YEAR 2012 RFPS.—For each request
17 for proposal described by subsection (a) that is re-
18 leased by the Administrator during fiscal year 2012
19 before the date of the enactment of this Act, the Ad-
20 ministrator shall submit to the congressional defense
21 committees a report described in subsection (b) by
22 not later than 90 days after the date of such enact-
23 ment.

1 **SEC. 3119 [Log #24626]. LIMITATION ON AVAILABILITY OF**
2 **FUNDS FOR INERTIAL CONFINEMENT FUSION**
3 **IGNITION AND HIGH YIELD CAMPAIGN.**

4 Of the funds authorized to be appropriated by this
5 Act or otherwise made available for fiscal year 2013 for
6 fusion ignition under the Inertial Confinement Fusion Ig-
7 nition and High Yield Campaign, not more than 50 per-
8 cent may be obligated or expended until the date on
9 which—

10 (1) the Administrator for Nuclear Security cer-
11 tifies to the congressional defense committees that
12 fusion ignition has been achieved at the National Ig-
13 nition Facility at Lawrence Livermore National Lab-
14 oratory; or

15 (2) the Administrator submits to such commit-
16 tees a detailed report on fusion ignition, including—

17 (A) a thorough description of the remain-
18 ing technical challenges and gaps in under-
19 standing with respect to such ignition;

20 (B) a plan and schedule for reevaluating
21 the ignition program and incorporating experi-
22 mental data into computer models;

23 (C) the best judgment of the Administrator
24 with respect to whether ignition can be achieved
25 at the National Ignition Facility, as designed on
26 the date of the report; and

1 (D) if funding being spent on ignition re-
2 search as of the date of the report were applied
3 to life extension programs—

4 (i) a description of such programs
5 that could be accelerated or otherwise im-
6 proved; and

7 (ii) how such funding changes would
8 affect the stockpile stewardship program.

1 **Subtitle C—Improvements to**
2 **National Security Energy Laws**

3 **SEC. 3131 [Log #18009]. IMPROVEMENTS TO THE ATOMIC EN-**
4 **ERGY DEFENSE ACT.**

5 (a) DEFINITIONS.—

6 (1) IN GENERAL.—Section 4002 of the Atomic
7 Energy Defense Act (50 U.S.C. 2501) is amended to
8 read as follows:

9 **“SEC. 4002. DEFINITIONS.**

10 “In this division:

11 “(1) The term ‘Administration’ means the Na-
12 tional Nuclear Security Administration.

13 “(2) The term ‘Administrator’ means the Ad-
14 ministrator for Nuclear Security.

15 “(3) The term ‘classified information’ means
16 any information that has been determined pursuant
17 to Executive Order No. 12333 of December 4, 1981
18 (50 U.S.C. 401 note), Executive Order No. 12958 of
19 April 17, 1995 (50 U.S.C. 435 note), or successor
20 orders, to require protection against unauthorized
21 disclosure and that is so designated.

22 “(4) The term ‘congressional defense commit-
23 tees’ means—

1 “(A) the Committee on Armed Services
2 and the Committee on Appropriations of the
3 Senate; and

4 “(B) the Committee on Armed Services
5 and the Committee on Appropriations of the
6 House of Representatives.

7 “(5) The term ‘nuclear security enterprise’
8 means the physical facilities, technology, and human
9 capital of the national security laboratories and the
10 nuclear weapons production facilities.

11 “(6) The term ‘national security laboratory’
12 means any of the following:

13 “(A) Los Alamos National Laboratory, Los
14 Alamos, New Mexico.

15 “(B) Sandia National Laboratories, Albu-
16 querque, New Mexico, and Livermore, Cali-
17 fornia.

18 “(C) Lawrence Livermore National Lab-
19 oratory, Livermore, California.

20 “(7) The term ‘nuclear weapons production fa-
21 cility’ means any of the following:

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

24 “(B) The Pantex Plant, Amarillo, Texas.

1 “(C) The Y-12 National Security Com-
2 plex, Oak Ridge, Tennessee.

3 “(D) The Savannah River Site, Aiken,
4 South Carolina.

5 “(E) The Nevada National Security Site,
6 Nevada.

7 “(F) Any facility of the Department of En-
8 ergy that the Secretary of Energy, in consulta-
9 tion with the Administrator and the Congress,
10 determines to be consistent with the mission of
11 the Administration.

12 “(8) The term ‘Restricted Data’ has the mean-
13 ing given such term in section 11 y. of the Atomic
14 Energy Act of 1954 (42 U.S.C. 2014(y)).”.

15 (2) CLERICAL AMENDMENT.—The table of con-
16 tents at the beginning of the Atomic Energy Defense
17 Act is amended by striking the item relating to sec-
18 tion 4002 and inserting the following new item:

“Sec. 4002. Definitions.”.

19 (b) STOCKPILE STEWARDSHIP.—Section
20 4201(b)(5)(E) of the Atomic Energy Defense Act (50
21 U.S.C. 2521(b)(5)(E)) is amended by striking “(as de-
22 fined in section 3281 of the National Nuclear Security Ad-
23 ministration Act (50 U.S.C. 2471))”.

1 (c) ANNUAL ASSESSMENTS.—Section 4205 of the
2 Atomic Energy Defense Act (50 U.S.C. 2525) is amended
3 by striking subsection (i).

4 (d) TESTING OF NUCLEAR WEAPONS.—

5 (1) IN GENERAL.—Section 4210 of the Atomic
6 Energy Defense Act (50 U.S.C. 2530) is amended to
7 read as follows:

8 **“SEC. 4210. TESTING OF NUCLEAR WEAPONS.**

9 “(a) UNDERGROUND TESTING.—No underground
10 test of nuclear weapons may be conducted by the United
11 States after September 30, 1996, unless a foreign state
12 conducts a nuclear test after this date, at which time the
13 prohibition on United States nuclear testing is lifted.

14 “(b) ATMOSPHERIC TESTING.—None of the funds
15 appropriated pursuant to the National Defense Authoriza-
16 tion Act for Fiscal Year 1994 or any other Act for any
17 fiscal year may be available to maintain the capability of
18 the United States to conduct atmospheric testing of a nu-
19 clear weapon.”.

20 (2) CLERICAL AMENDMENT.—The table of con-
21 tents at the beginning of the Atomic Energy Defense
22 Act is amended by striking the items relating to sec-
23 tions 4210 and 4211 and inserting the following new
24 item:

“Sec. 4210. Testing of nuclear weapons.”.

1 (3) CONFORMING AMENDMENT.—Section 4211
2 of the Atomic Energy Defense Act (50 U.S.C. 2531)
3 is repealed.

4 (e) MANUFACTURING INFRASTRUCTURE.—Section
5 4212 of the Atomic Energy Defense Act (50 U.S.C. 2532)
6 is amended by striking subsections (d) and (e).

7 (f) CRITICAL DIFFICULTIES REPORT.—

8 (1) IN GENERAL.—Section 4213 of the Atomic
9 Energy Defense Act (50 U.S.C. 2533) is amended—

10 (A) in the heading, by striking “**NUCLEAR**
11 **WEAPONS LABORATORIES AND NUCLEAR**
12 **WEAPONS PRODUCTION PLANTS**” and in-
13 serting “**NATIONAL SECURITY LABORA-**
14 **TORIES AND NUCLEAR WEAPONS PRODUC-**
15 **TION FACILITIES**”;

16 (B) in subsection (a), by striking “Assistant
17 Secretary of Energy for Defense Programs”
18 and inserting “Administrator”;

19 (C) by striking “Assistant Secretary” each
20 place it appears and inserting “Administrator”;

21 (D) by striking “nuclear weapons labora-
22 tory” each place it appears and inserting “na-
23 tional security laboratory”;

1 (E) by striking “production plant” each
2 place it appears and inserting “production facil-
3 ity”; and

4 (F) by striking subsection (e).

5 (2) CLERICAL AMENDMENT.—The table of con-
6 tents at the beginning of the Atomic Energy Defense
7 Act is amended by striking the item relating to sec-
8 tion 4213 and inserting the following new item:

“Sec. 4213. Reports on critical difficulties at national security laboratories and
nuclear weapons production facilities.”.

9 (g) PLAN FOR TRANSFORMATION.—

10 (1) IN GENERAL.—Section 4214 of the Atomic
11 Energy Defense Act (50 U.S.C. 2534) is amended—

12 (A) by striking subsections (b) and (d);
13 and

14 (B) by redesignating subsection (c) as sub-
15 section (b).

16 (2) CLERICAL AMENDMENT.—The table of con-
17 tents at the beginning of the Atomic Energy Defense
18 Act is amended by inserting after the item relating
19 to section 4213 the following new item:

“Sec. 4214. Plan for transformation of national nuclear security administration
nuclear weapons complex.”.

20 (h) TRITIUM PRODUCTION PROGRAM.—Section 4231
21 of the Atomic Energy Defense Act (50 U.S.C. 2541) is
22 amended to read as follows:

1 **“SEC. 4231. TRITIUM PRODUCTION PROGRAM.**

2 “(a) ESTABLISHMENT OF PROGRAM.—The Secretary
3 shall establish a tritium production program that is capa-
4 ble of meeting the tritium requirements of the United
5 States for nuclear weapons. In carrying out the tritium
6 production program, the Secretary shall assess alternative
7 means for tritium production, including production
8 through—

9 “(1) types of new and existing reactors, includ-
10 ing multipurpose reactors (such as advanced light
11 water reactors and gas turbine gas-cooled reactors)
12 capable of meeting both the tritium production re-
13 quirements and the plutonium disposition require-
14 ments of the United States for nuclear weapons;

15 “(2) an accelerator; and

16 “(3) multipurpose reactor projects carried out
17 by the private sector and the Government.

18 “(b) LOCATION OF TRITIUM PRODUCTION FACIL-
19 ITY.—The Secretary shall locate any new tritium produc-
20 tion facility of the Department of Energy at the Savannah
21 River Site, South Carolina.”.

22 (i) TRITIUM RECYCLING FACILITIES.—Section 4234
23 of the Atomic Energy Defense Act (50 U.S.C. 2544) is
24 amended—

1 (1) by striking “(a) IN GENERAL.—The Sec-
2 retary of Energy” and inserting “The Secretary”;
3 and

4 (2) by striking subsection (b).

5 (j) RESTRICTED DATA.—Section 4501 of the Atomic
6 Energy Defense Act (50 U.S.C. 2651(a)) is amended by
7 striking subsection (c).

8 (k) FOREIGN VISITORS.—Section 4502 of the Atomic
9 Energy Defense Act (50 U.S.C. 2652) is amended—

10 (1) by striking “national laboratory” each place
11 it appears and inserting “national security labora-
12 tory”; and

13 (2) in subsection (g), by striking paragraphs
14 (3) and (4).

15 (l) BACKGROUND INVESTIGATIONS.—Section 4503 of
16 the Atomic Energy Defense Act (50 U.S.C. 2653) is
17 amended—

18 (1) by striking “(a) IN GENERAL.—”;

19 (2) by striking subsections (b) and (c); and

20 (3) by striking “national laboratory” and in-
21 serting “national security laboratory”.

22 (m) SECURITY FUNCTIONS REPORT.—Section 4506
23 of the Atomic Energy Defense Act (50 U.S.C. 2657) is
24 amended—

25 (1) by striking “(a) IN GENERAL.—”; and

1 (2) by striking subsection (b).

2 (n) COUNTERINTELLIGENCE REPORT.—Section 4507
3 of the Atomic Energy Defense Act (50 U.S.C. 2658) is
4 amended—

5 (1) by striking “national laboratories” each
6 place it appears and inserting “national security lab-
7 oratories”; and

8 (2) by striking subsection (c).

9 (o) COMPUTER SECURITY REPORT.—Section 4508 of
10 the Atomic Energy Defense Act (50 U.S.C. 2659)—

11 (1) in subsection (a), by striking “national lab-
12 oratories” and inserting “national security labora-
13 tories”; and

14 (2) by striking subsections (e) and (f).

15 (p) DOCUMENT REVIEW.—Section 4521 of the Atom-
16 ic Energy Defense Act (50 U.S.C. 2671) is amended by
17 striking subsection (e).

18 (q) REPORTS ON LOCAL IMPACT ASSISTANCE.—

19 (1) IN GENERAL.—Section 4604(f) of the
20 Atomic Energy Defense Act (50 U.S.C. 2704(f)) is
21 amended by adding at the end the following new
22 paragraph:

23 “(3) In addition to the plans submitted under para-
24 graph (1), the Secretary of Energy shall submit to Con-
25 gress every six months a report setting forth a description

1 of, and the amount or value of, all local impact assistance
2 provided during the preceding six months under sub-
3 section (c)(6).”.

4 (2) CONFORMING AMENDMENT.—Section 4851
5 of the Atomic Energy Defense Act (50 U.S.C. 2821)
6 is repealed.

7 (3) CLERICAL AMENDMENT.—The table of con-
8 tents at the beginning of the Atomic Energy Defense
9 Act is amended by striking the item relating to sec-
10 tion 4851.

11 (r) RECRUITMENT AND TRAINING.—Section 4622 of
12 the Atomic Energy Defense Act (50 U.S.C. 2722) is
13 amended—

14 (1) in subsection (b)—

15 (A) by striking “(1) As part of” and in-
16 serting “As part of”; and

17 (B) by striking paragraph (2); and

18 (2) by striking subsection (d).

19 (s) FELLOWSHIP PROGRAM.—

20 (1) IN GENERAL.—Section 4623 of the Atomic
21 Energy Defense Act (50 U.S.C. 2723) is amended—

22 (A) in the heading, by striking “**DEPART-**
23 **MENT OF ENERGY NUCLEAR WEAPONS**
24 **COMPLEX**” and inserting “**NUCLEAR SECU-**
25 **RITY ENTERPRISE**”;

1 (B) by striking “Department of Energy
2 nuclear weapons complex” each place it appears
3 and inserting “nuclear security enterprise”;

4 (C) in subsection (c), by striking “fol-
5 lowing” and all that follows through the period
6 at the end and inserting “national security lab-
7 oratories and nuclear weapon production facili-
8 ties.”; and

9 (D) in subsection (f)(2), by striking “the
10 Department of Energy for” and inserting “the
11 nuclear security enterprise for”.

12 (2) CLERICAL AMENDMENT.—The table of con-
13 tents at the beginning of the Atomic Energy Defense
14 Act is amended by striking the item relating to sec-
15 tion 4623 and inserting the following new item:

“Sec. 4623. Fellowship program for development of skills critical to the nuclear
security enterprise.”.

16 (t) COST OVERRUNS.—Section 4713(a)(1)(A) of the
17 Atomic Energy Defense Act (50 U.S.C. 2753(a)(1)(A)) is
18 amended—

19 (1) by striking “for Nuclear Security”; and

20 (2) by striking “National Nuclear Security”.

21 (u) BUDGET REQUEST.—

22 (1) IN GENERAL.—Section 4731 of the Atomic
23 Energy Defense Act (50 U.S.C. 2771) is repealed.

1 (2) CLERICAL AMENDMENT.—The table of con-
2 tents at the beginning of the Atomic Energy Defense
3 Act is amended by striking the item relating to sec-
4 tion 4731.

5 (v) CONTRACTOR BONUSES.—Section 4802 of the
6 Atomic Energy Defense Act (50 U.S.C. 2782) is amend-
7 ed—

8 (2) by striking subsection (b); and

9 (3) by redesignating subsections (c) and (d) as
10 subsections (b) and (c), respectively.

11 (w) FUNDS FOR RESEARCH AND DEVELOPMENT.—
12 Section 4812 of the Atomic Energy Defense Act (50
13 U.S.C. 2792) is amended—

14 (1) by striking subsections (b) through (d); and

15 (2) by redesignating subsection (e) as sub-
16 section (b).

17 (x) TECHNOLOGY PARTNERSHIPS.—Section 4813(c)
18 of the Atomic Energy Defense Act (50 U.S.C. 2794(c))
19 is amended by striking paragraph (5).

20 (y) UNIVERSITY COLLABORATION.—Section 4814 of
21 the Atomic Energy Defense Act (50 U.S.C. 2795) is
22 amended by striking subsection (e).

23 (z) ENGINEERING AND MANUFACTURING RE-
24 SEARCH.—Section 4832 of the Atomic Energy Defense

1 Act (50 U.S.C. 2812) is amended by striking subsections
2 (c) through (e).

3 (aa) PILOT PROGRAM REPORT.—Section 4833 of the
4 Atomic Energy Defense Act (50 U.S.C. 2813) is amended
5 by striking subsection (e).

6 (bb) TECHNICAL AMENDMENTS.—The Atomic En-
7 ergy Defense Act (50 U.S.C. 2501 et seq.) is amended
8 as follows:

9 (1) By striking “Nevada Test Site” each place
10 it appears and inserting “Nevada National Security
11 Site”.

12 (2) By striking “Director of Central Intel-
13 ligence” each place it appears and inserting “Direc-
14 tor of National Intelligence”.

1 **SEC. 3132 [Log #18083]. IMPROVEMENTS TO THE NATIONAL**
2 **NUCLEAR SECURITY ADMINISTRATION ACT.**

3 (a) NUCLEAR SECURITY ENTERPRISE REF-
4 ERENCE.—

5 (1) FUTURE-YEARS NUCLEAR SECURITY PRO-
6 GRAM.—Section 3253 of the National Nuclear Secu-
7 rity Administration Act (50 U.S.C. 2453) is amend-
8 ed by striking “nuclear weapons complex” each place
9 it appears and inserting “nuclear security enter-
10 prise”.

11 (2) GAO REPORTS.—Section 3255 of the Na-
12 tional Nuclear Security Administration Act (50
13 U.S.C. 2455) is amended—

14 (A) by striking “nuclear security complex”
15 each place it appears and inserting “nuclear se-
16 curity enterprise”; and

17 (B) in subsection (b), by striking para-
18 graph (3).

19 (3) DEFINITION.—Section 3281 of the National
20 Nuclear Security Administration Act (50 U.S.C.
21 2471) is amended by adding at the end the following
22 new paragraph:

23 “(6) The term ‘nuclear security enterprise’
24 means the physical facilities, technology, and human
25 capital of the national security laboratories and the
26 nuclear weapons production facilities.”.

1 (b) TRANSFER OF FUNCTIONS.—

2 (1) NEW TRANSFERS.—

3 (A) IN GENERAL.—Section 3291 of the
4 National Nuclear Security Administration Act
5 (50 U.S.C. 2481) is amended to read as fol-
6 lows:

7 **“SEC. 3291. TRANSFER OF FUNCTIONS.**

8 “(a) AUTHORITY TO TRANSFER FUNCTIONS.—The
9 Secretary of Energy may transfer to the Administrator
10 any facility, mission, or function of the Department of En-
11 ergy that the Secretary, in consultation with the Adminis-
12 trator and Congress, determines to be consistent with the
13 mission of the Administration.

14 “(b) ENVIRONMENTAL REMEDIATION AND WASTE
15 MANAGEMENT ACTIVITIES.—In the case of any environ-
16 mental remediation and waste management activity of any
17 element of the Administration, the Secretary of Energy
18 may determine to transfer responsibility for that activity
19 to another element of the Department of Energy.

20 “(c) TRANSFER OF FUNDS.—(1) Any balance of ap-
21 propriations that the Secretary of Energy determines is
22 available and needed to finance or discharge a function,
23 power, or duty or an activity that is transferred to the
24 Administration shall be transferred to the Administration
25 and used for any purpose for which those appropriations

1 were originally available. Balances of appropriations so
2 transferred shall—

3 “(A) be credited to any applicable appropriation
4 account of the Administration; or

5 “(B) be credited to a new account that may be
6 established on the books of the Department of the
7 Treasury;

8 and shall be merged with the funds already credited
9 to that account and accounted for as one fund.

10 “(2) Balances of appropriations credited to an ac-
11 count under paragraph (1)(A) are subject only to such
12 limitations as are specifically applicable to that account.
13 Balances of appropriations credited to an account under
14 paragraph (1)(B) are subject only to such limitations as
15 are applicable to the appropriations from which they are
16 transferred.

17 “(d) PERSONNEL.—(1) With respect to any function,
18 power, or duty or activity of the Department of Energy
19 that is transferred to the Administration, those employees
20 of the element of the Department of Energy from which
21 the transfer is made that the Secretary of Energy deter-
22 mines are needed to perform that function, power, or duty,
23 or for that activity, as the case may be, shall be trans-
24 ferred to the Administration.

1 “(2) The authorized strength in civilian employees of
2 any element of the Department of Energy from which em-
3 ployees are transferred under this section is reduced by
4 the number of employees so transferred.”.

5 (B) CLERICAL AMENDMENT.—The table of
6 contents at the beginning of the National Nu-
7 clear Security Administration Act is amended
8 by striking the item relating to section 3291
9 and inserting the following new item:

“Sec. 3291. Transfer of Functions.”.

10 (2) APPLICABILITY OF EXISTING LAWS AND
11 REGULATIONS.—Section 3296 of the National Nu-
12 clear Security Administration Act (50 U.S.C. 2484)
13 is amended to read as follows:

14 **“SEC. 3296. APPLICABILITY OF PREEXISTING LAWS AND**
15 **REGULATIONS.**

16 “With respect to any facility, mission, or function of
17 the Department of Energy that the Secretary of Energy
18 transfers to the Administrator under section 3291, unless
19 otherwise provided in this title, all provisions of law and
20 regulations in effect immediately before the date of the
21 transfer that are applicable to such facility, mission, or
22 functions shall continue to apply to the corresponding
23 functions of the Administration.”.

24 (3) RULE OF CONSTRUCTION.—Nothing in sec-
25 tion 3291 of the National Nuclear Security Adminis-

1 tration Act (50 U.S.C. 2481), as amended by para-
2 graph (1), may be construed to affect any function
3 or activity transferred by the Secretary of Energy to
4 the Administrator for Nuclear Security before the
5 date of the enactment of this Act.

6 (c) REPEAL OF EXPIRED PROVISIONS.—

7 (1) IN GENERAL.—The following sections of the
8 National Nuclear Security Administration Act (50
9 U.S.C. 2401 et seq.) are repealed:

10 (A) Section 3242 (50 U.S.C. 2442).

11 (B) Section 3292 (50 U.S.C. 2482).

12 (C) Section 3295 (50 U.S.C. 2483).

13 (D) Section 3297 (50 U.S.C. 2401 note).

14 (2) CLERICAL AMENDMENTS.—The table of
15 contents at the beginning of the National Nuclear
16 Security Administration Act is amended by striking
17 the item relating to sections 3242, 3292, 3295, and
18 3297.

19 (d) TECHNICAL AMENDMENTS TO THE NNSA
20 ACT.—The National Nuclear Security Administration Act
21 (50 U.S.C. 2401 et seq.) is amended as follows:

22 (1) In section 3212(a)(2) (50 U.S.C. 2402), by
23 striking “as added by section 3202 of this Act,”.

24 (2) In section 3253(b)(3) (50 U.S.C.
25 2453(b)(3)), by striking “section 3158 of the Strom

1 Thurmond National Defense Authorization Act for
2 Fiscal Year 1999 (42 U.S.C. 2121 note)” and in-
3 serting “section 4202(a) of the Atomic Energy De-
4 fense Act (50 U.S.C. 2522(a))”.

5 (3) In section 3281(2) (50 U.S.C. 2471(2))—

6 (A) in subparagraph (C), by striking “Y-
7 12 Plant” and inserting “Y-12 National Secu-
8 rity Complex”; and

9 (B) in subparagraph (D), by striking “trit-
10 ium operations facilities at the”.

11 (4) By striking “Nevada Test Site” each place
12 it appears and inserting “Nevada National Security
13 Site”.

14 (e) TECHNICAL AMENDMENT TO THE DOE ORGANI-
15 ZATION ACT.—Section 643 of the Department of Energy
16 Organization Act (42 U.S.C. 7253) is amended by redesi-
17 gnating the second subsection (b) as subsection (e).

1 **SEC. 3133 [Log #24625]. CLARIFICATION OF THE ROLE OF**
2 **THE ADMINISTRATOR FOR NUCLEAR SECU-**
3 **RITY.**

4 (a) ROLE UNDER NNSA ACT.—

5 (1) FUNCTION.—Section 3212 of the National
6 Nuclear Security Administration Act (50 U.S.C.
7 2402(b)) is amended—

8 (A) in subsection (b), by striking “all pro-
9 grams and activities of the Administration” and
10 inserting “all programs, policies, regulations,
11 and rules of the Administration”; and

12 (B) in subsection (d), by striking “, unless
13 disapproved by the Secretary of Energy.” and
14 inserting “to carry out the mission and func-
15 tions of the Administration, except as provided
16 by section 3219.”.

17 (2) ROLE OF THE SECRETARY OF ENERGY.—

18 (A) IN GENERAL.—Section 3219 of the
19 National Nuclear Security Administration Act
20 (50 U.S.C. 2409) is amended to read as fol-
21 lows:

22 **“SEC. 3219. SCOPE OF AUTHORITY OF SECRETARY OF EN-**
23 **ERGY REGARDING THE ADMINISTRATION.**

24 “(a) IN GENERAL.—(1) The Secretary of Energy
25 may disapprove any action, policy, regulation, or rule of
26 the Administrator if—

1 “(A) the Secretary submits to the congressional
2 defense committees justification for such dis-
3 approval; and

4 “(B) a period of 15 days has elapsed following
5 the date on which such justification was submitted.

6 “(2) Nothing in this title may be construed to provide
7 authority to the Secretary of Energy to administer, en-
8 force, or oversee the activities under this title except—

9 “(A) as provided by paragraph (1); or

10 “(B) to the extent otherwise specifically pro-
11 vided by law.

12 “(3) Except as provided by this section, the Adminis-
13 trator shall have complete authority to establish and con-
14 duct oversight of policies, activities, and procedures of the
15 Administration without direction or oversight by the Sec-
16 retary of Energy.

17 “(4) The authority of the Secretary under paragraph
18 (1) may be delegated only to the Deputy Secretary of En-
19 ergy, without further redelegation.

20 “(b) LIMITATION ON TRANSFER.—Notwithstanding
21 the authority granted by section 643 of the Department
22 of Energy Organization Act (42 U.S.C. 7253) or any other
23 provision of law, the Secretary of Energy may not estab-
24 lish, abolish, alter, consolidate, or discontinue any organi-
25 zational unit or component, or transfer any function, of

1 the Administration, except as authorized by section
2 3291.”.

3 (B) CLERICAL AMENDMENT.—The table of
4 contents at the beginning of the National Nu-
5 clear Security Administration Act is amended
6 by striking the item relating to section 3219
7 and inserting the following new item:

“Sec. 3219. Scope of Authority of Secretary of Energy regarding the Adminis-
tration.”.

8 (C) DEPARTMENT OF ENERGY ORGANIZA-
9 TION ACT.—Section 202(c)(3) of the Depart-
10 ment of Energy Organization Act (42 U.S.C.
11 7132(c)(3)) is amended to read as follows:

12 “(3) The Under Secretary for Nuclear Security shall
13 serve as the Administrator for Nuclear Security under sec-
14 tion 3212 of the National Nuclear Security Administration
15 Act (50 U.S.C. 2402). In carrying out the functions of
16 the Administrator, the Under Secretary shall be subject
17 to the authority of the Secretary of Energy in accordance
18 with section 3219 of such Act (50 U.S.C. 2409).”.

19 (3) STATUS OF ADMINISTRATION AND CON-
20 TRACTOR PERSONNEL.—Section 3220 of the Na-
21 tional Nuclear Security Administration Act (50
22 U.S.C. 2410) is amended—

23 (A) in subsection (a)—

24 (i) in paragraph (1)—

1 (I) by striking subparagraph (A);

2 and

3 (II) by redesignating subpara-
4 graph (B) and (C) as subparagraph
5 (A) and (B), respectively;

6 (ii) in paragraph (2), by striking “any
7 other officer, employee, or agent of the De-
8 partment of Energy” and inserting “any
9 officer, employee, or agent of the Depart-
10 ment of Energy, except as provided by sec-
11 tion 3219”; and

12 (B) in subsection (b), by striking “except
13 for” and all that follows through the period and
14 inserting “except as provided by section 3219.”.

15 (4) OFFICE OF DEFENSE NUCLEAR SECUR-
16 RITY.—Section 3232 of the National Nuclear Secu-
17 rity Administration Act (50 U.S.C. 2422) is amend-
18 ed to read as follows:

19 **“SEC. 3232. OFFICE OF DEFENSE NUCLEAR SECURITY.**

20 “(a) ESTABLISHMENT.—There is within the Admin-
21 istration an Office of Defense Nuclear Security, headed
22 by a Chief appointed by the Administrator.

23 “(b) CHIEF OF DEFENSE NUCLEAR SECURITY.—(1)
24 The head of the Office of Defense Nuclear Security is the
25 Chief of Defense Nuclear Security, who shall report to the

1 Administrator and shall implement the security policies di-
2 rected by the Administrator.

3 “(2) The Chief shall be responsible for the develop-
4 ment and implementation of security programs and poli-
5 cies for the Administration, including the protection, con-
6 trol, and accounting of materials, and for the physical and
7 cyber security for all facilities of the Administration.”.

8 (5) COUNTERINTELLIGENCE PROGRAMS.—Sec-
9 tion 3233 of the National Nuclear Security Adminis-
10 tration Act (50 U.S.C. 2423) is amended in each of
11 subsections (a) and (b) by striking “The Secretary
12 of Energy shall” and inserting “The Secretary of
13 Energy, in coordination with the Administrator,
14 shall”.

15 (6) BUDGET TREATMENT.—Section 3251(a) of
16 the National Nuclear Security Administration Act
17 (50 U.S.C. 2451(a)) is amended by striking “within
18 the other amounts requested for the Department of
19 Energy” and inserting “from the amounts requested
20 for any other agency, including the Department of
21 Energy”.

22 (7) FUTURE-YEARS NUCLEAR SECURITY PRO-
23 GRAM.—Section 3253(b)(6) of the National Nuclear
24 Security Administration Act (50 U.S.C. 2453(b)(6))
25 is amended by striking “, developed in consultation

1 with the Director of the Office of Health, Safety,
2 and Security of the Department of Energy,”.

3 (b) ROLE UNDER THE AEDA.—

4 (1) STOCKPILE STEWARDSHIP.—Section
5 4201(a) of the Atomic Energy Defense Act (50
6 U.S.C. 2521(a)) is amended by striking “The Sec-
7 retary of Energy, acting through the Administrator
8 for Nuclear Security,” and inserting “The Adminis-
9 trator”.

10 (2) REPORT ON STOCKPILE STEWARDSHIP.—
11 Section 4202 of the Atomic Energy Defense Act (50
12 U.S.C. 2522) is amended—

13 (A) in subsection (a)—

14 (i) by striking “The Secretary of En-
15 ergy” and inserting “The Administrator”;
16 and

17 (ii) by striking “Department of En-
18 ergy” and inserting “Administration”; and

19 (B) in subsection (b), by striking “The
20 Secretary of Energy” and inserting “The Ad-
21 ministrator”.

22 (3) STOCKPILE MANAGEMENT.—Section 4204
23 of the Atomic Energy Defense Act (50 U.S.C. 2524)
24 is amended—

1 (A) in subsection (a), by striking “The
2 Secretary of Energy, acting through the Admin-
3 istrator for Nuclear Security and” and inserting
4 “The Administrator,”; and

5 (B) in subsection (b), by striking “Sec-
6 retary of Energy” and inserting “Adminis-
7 trator”

8 (4) ANNUAL ASSESSMENTS.—Section 4205(h)
9 of the Atomic Energy Defense Act (50 U.S.C.
10 2525(h)) is amended to read as follows:

11 “(h) SECRETARY CONCERNED DEFINED.—In this
12 section, the term ‘Secretary concerned’ means—

13 “(1) the Secretary of Energy, with respect to
14 matters concerning the Administration; and

15 “(2) the Secretary of Defense, with respect to
16 matters concerning the Department of Defense.”.

17 (5) NUCLEAR TEST BAN READINESS PRO-
18 GRAM.—Section 4207 of the Atomic Energy Defense
19 Act (50 U.S.C. 2527) is amended—

20 (A) in subsection (b), by striking “Sec-
21 retary of Energy” and inserting “Adminis-
22 trator”; and

23 (B) in subsection (d), by striking “Sec-
24 retary of Energy” and inserting “Adminis-
25 trator”.

1 (6) SPECIFIC REQUEST REQUIREMENT.—Sec-
2 tion 4209 of the Atomic Energy Defense Act (50
3 U.S.C. 2529) is amended—

4 (A) in subsection (a)(1)—

5 (i) by striking “ after fiscal year 2002
6 in which the Secretary of Energy” and in-
7 serting “in which the Administrator”; and

8 (ii) by striking “the Secretary shall”
9 and inserting “the Administrator shall”;
10 and

11 (B) in subsection (b), by striking “Sec-
12 retary shall” and inserting “Administrator
13 shall”.

14 (7) MANUFACTURING INFRASTRUCTURE.—Sec-
15 tion 4212(a)(1) of the Atomic Energy Defense Act
16 (50 U.S.C. 2532(a)(1)) is amended by striking “Sec-
17 retary of Energy” and inserting “Administrator”.

18 (8) PLAN FOR TRANSFORMATION.—Section
19 4214 of the Atomic Energy Defense Act (50 U.S.C.
20 2534), as amended by section 3131(g)(1), is amend-
21 ed by striking “Secretary of Energy” each place it
22 appears and inserting “Administrator”.

23 (9) NUCLEAR MATERIALS PROTECTION, CON-
24 TROL, AND ACCOUNTING.—Section 4303(a) of the

1 Atomic Energy Defense Act (50 U.S.C. 2563(a)) is
2 amended—

3 (A) by striking “Secretary of Energy” and
4 inserting “Administrator”; and

5 (B) by striking “Department of Energy”
6 and inserting “Administration”.

7 (10) TRITIUM PRODUCTION PROGRAM.—Section
8 4231 of the Atomic Energy Defense Act (50 U.S.C.
9 2541), as amended by section 3131(h), is amend-
10 ed—

11 (A) by striking “Secretary” each place it
12 appears and inserting “Adminstrator”; and

13 (B) in subsection (b), by striking “Depart-
14 ment of Energy” and inserting “Administra-
15 tion”.

16 (11) TRITIUM RECYCLING FACILITIES.—Section
17 4234 of the Atomic Energy Defense Act (50 U.S.C.
18 2544), as amended by section 3131(i), is amended
19 by striking “Secretary” and inserting
20 “Adminstrator”.

21 (12) CERTAIN FISSILE MATERIALS PROGRAM.—
22 Section 4305 of the Atomic Energy Defense Act (50
23 U.S.C. 2565) is amended by striking “Secretary of
24 Energy” and inserting “Administrator”.

1 (13) FISSILE MATERIALS MANAGEMENT
2 PLAN.—Section 4403(a)(1) of the Atomic Energy
3 Defense Act (50 U.S.C. 2583(a)(1)) is amended by
4 striking “the Office of Defense Programs” and in-
5 serting “the Administration”.

6 (14) RESTRICTED DATA.—Section 4501(a) of
7 the Atomic Energy Defense Act (50 U.S.C. 2651(a))
8 is amended by striking “The Secretary of Energy”
9 and inserting “The Administrator”.

10 (16) BACKGROUND INVESTIGATIONS.—Section
11 4503 of the Atomic Energy Defense Act (50 U.S.C.
12 2653), as amended by section 3131(l), is amended
13 by striking “The Secretary of Energy” and inserting
14 “The Administrator”.

15 (17) COUNTERINTELLIGENCE FAILURES.—Sec-
16 tion 4505 of the Atomic Energy Defense Act (50
17 U.S.C. 2656) is amended—

18 (A) by striking “Secretary of Energy” each
19 place it appears and inserting “Administrator”;

20 (B) by striking “Secretary” each place it
21 appears and inserting “Administrator”;

22 (C) by striking “Department of Energy”
23 each place it appears and inserting “Adminis-
24 tration”; and

1 (D) by striking “Department” each place
2 it appears and inserting “Administration”.

3 (18) SECURITY FUNCTIONS REPORT.—Section
4 4506 of the Atomic Energy Defense Act (50 U.S.C.
5 2657), as amended by section 3131(m), is amended
6 by striking “the Secretary of Energy” and inserting
7 “the Administrator”.

8 (19) COUNTERINTELLIGENCE REPORT.—Sec-
9 tion 4507(a) of the Atomic Energy Defense Act (50
10 U.S.C. 2658(a)) is amended by striking “Secretary
11 of Energy” and inserting “Administrator”.

12 (20) COMPUTER SECURITY REPORT.—Section
13 4508 of the Atomic Energy Defense Act (50 U.S.C.
14 2659) is amended—

15 (A) in subsection (c), by striking “Sec-
16 retary of Energy” each place it appears and in-
17 serting “Administrator”; and

18 (B) in subsection (d), by striking “Sec-
19 retary” each place it appears and inserting
20 “Administrator”.

21 (21) DOCUMENT REVIEW.—Section 4521 of the
22 Atomic Energy Defense Act (50 U.S.C. 2671) is
23 amended—

24 (A) in subsection (a)—

1 (i) by striking “Secretary of Energy”
2 and inserting “Administrator”;

3 (ii) by striking “Department of En-
4 ergy” and inserting “Administration”; and

5 (B) in subsection (b), by striking “Sec-
6 retary” each place it appears and inserting
7 “Administrator”.

8 (22) MANAGEMENT TRAINING.—

9 (A) IN GENERAL.—Section 4621 of the
10 Atomic Energy Defense Act (50 U.S.C. 2721)
11 is amended—

12 (i) in the heading, by inserting “**AND**
13 **NATIONAL NUCLEAR SECURITY AD-**
14 **MINISTRATION**” after “**ENERGY**”;

15 (ii) in subsection (a)—

16 (I) by striking “Secretary of En-
17 ergy” and inserting “Under Secretary
18 of Energy for Nuclear Security”; and

19 (II) by inserting “and the Ad-
20 ministration” after “the Department
21 of Energy”; and

22 (iii) in subsection (b)(1), by inserting
23 “and Administration” after “Department
24 of Energy”.

1 (B) CLERICAL AMENDMENT.—The table of
2 contents at the beginning of the Atomic Energy
3 Defense Act is amended by striking the item re-
4 lating to section 4621 and inserting the fol-
5 lowing new item:

“Sec. 4621. Executive management training in the Department of Energy and
National Nuclear Security Administration.”.

6 (23) RECRUITMENT AND TRAINING.—Section
7 4622 of the Atomic Energy Defense Act (50 U.S.C.
8 2722) is amended—

9 (A) in subsection (a), by striking “the Sec-
10 retary of Energy” and inserting “the Adminis-
11 trator”; and

12 (B) in subsection (c), by striking “Sec-
13 retary” and inserting “Administrator”.

14 (24) FELLOWSHIP PROGRAM.—Section 4623 of
15 the Atomic Energy Defense Act (50 U.S.C. 2723) is
16 amended—

17 (A) by striking “Secretary of Energy” each
18 place it appears and inserting “Administrator”;

19 (B) by striking “Secretary” each place it
20 appears and inserting “Administrator;”;

21 (C) in subsection (b)(1), by striking “De-
22 partment of Energy” and inserting “Adminis-
23 tration”; and

1 (D) in subsection (e), by striking “, in con-
2 sultation with the Assistant Secretary of En-
3 ergy for Defense Programs,”.

4 (25) TRANSFER OF WEAPONS FUNDS.—Section
5 4711 of the Atomic Energy Defense Act (50 U.S.C.
6 2751) is amended—

7 (A) in subsection (a), by striking “Sec-
8 retary of Energy” and inserting “Adminis-
9 trator”;

10 (B) in subsection (d), by striking “Sec-
11 retary, acting through the Administrator for
12 Nuclear Security,” and inserting “Adminis-
13 trator”; and

14 (C) in subsection (e)—

15 (i) in paragraph (1)—

16 (I) by striking “Department of
17 Energy” and inserting “Administra-
18 tion”; and

19 (II) by striking “Department”
20 and inserting “Administration”; and

21 (ii) in paragraph (2), by inserting “or
22 the Administration” after “Department of
23 Energy”.

1 (26) COST OVERRUNS.—Section 4713 of the
2 Atomic Energy Defense Act (50 U.S.C. 2753) is
3 amended—

4 (A) in subsection (a)(2)—

5 (i) in subparagraph (A)—

6 (I) by striking “Secretary of En-
7 ergy” and inserting “Administrator”;
8 and

9 (II) in clause (ii), by striking
10 “Department” and inserting “Admin-
11 istration”; and

12 (ii) in subparagraph (B), by striking
13 “Secretary” and inserting “Adminis-
14 trator”; and

15 (B) in subsection (c)(2)(B), by inserting
16 “or the Administration” after “Department of
17 Energy”.

18 (27) PENALTIES.—Section 4721(a) of the
19 Atomic Energy Defense Act (50 U.S.C. 2761(a)) is
20 amended by striking “the Department of Energy for
21 the Naval Nuclear Propulsion Program” and insert-
22 ing “the Administration for the Naval Nuclear Reac-
23 tor Program”.

1 (28) RESEARCH AND DEVELOPMENT.—Section
2 4811 of the Atomic Energy Defense Act (50 U.S.C.
3 2791) is amended—

4 (A) in subsection (a), by inserting “and
5 the Administration” after “Department of En-
6 ergy”;

7 (B) in subsection (b)—

8 (i) by striking “The Secretary” and
9 inserting “(1) Except as provided by para-
10 graph (2), the Secretary”; and

11 (ii) by adding at the end the following
12 new paragraph:

13 “(2) With respect to the conduct of laboratory-di-
14 rected research and development at laboratories of the Ad-
15 ministration, the Administrator shall prescribe regulations
16 for such conduct and oversee such regulations.”; and

17 (C) in subsection (c), by inserting “or the
18 Administrator” after “the Secretary”.

19 (29) FUNDS FOR RESEARCH AND DEVELOP-
20 MENT.—Subsection (a)(1) of section 4812 of the
21 Atomic Energy Defense Act (50 U.S.C. 2792(a)(1))
22 is amended—

23 (A) by striking “the Department of Energy
24 in” and inserting “the Administration in”;

1 (B) by striking “under the Department of
2 Energy”; and inserting “under the”;

3 (C) by striking “any Department of En-
4 ergy” and inserting “any”; and

5 (D) by striking “mission of the Depart-
6 ment of Energy” and inserting “mission of the
7 Administration”.

1 **SEC. 3134 [Log #18001]. CONSOLIDATED REPORTING RE-**
2 **QUIREMENTS RELATING TO NUCLEAR**
3 **STOCKPILE STEWARDSHIP, MANAGEMENT,**
4 **AND INFRASTRUCTURE.**

5 (a) CONSOLIDATED PLAN FOR STEWARDSHIP, MAN-
6 AGEMENT, AND CERTIFICATION OF WARHEADS IN THE
7 NUCLEAR WEAPONS STOCKPILE.—

8 (1) IN GENERAL.—Section 4203 of the Atomic
9 Energy Defense Act (50 U.S.C. 2523) is amended to
10 read as follows:

11 **“SEC. 4203. NUCLEAR WEAPONS STOCKPILE STEWARDSHIP,**
12 **MANAGEMENT, AND INFRASTRUCTURE PLAN.**

13 “(a) PLAN REQUIREMENT.—The Administrator, in
14 consultation with the Secretary of Defense and other ap-
15 propriate officials of the departments and agencies of the
16 Federal Government, shall develop and annually update
17 a plan for sustaining the nuclear weapons stockpile. The
18 plan shall cover, at a minimum, stockpile stewardship,
19 stockpile management, stockpile surveillance, program di-
20 rection, infrastructure modernization, human capital, and
21 nuclear test readiness. The plan shall be consistent with
22 the programmatic and technical requirements of the most
23 recent annual Nuclear Weapons Stockpile Memorandum.

24 “(b) SUBMISSIONS TO CONGRESS.—(1) In accord-
25 ance with subsection (c), not later than March 15 of each
26 even-numbered year, the Administrator shall submit to the

1 congressional defense committees a summary of the plan
2 developed under subsection (a).

3 “(2) In accordance with subsection (d), not later than
4 March 15 of each odd-numbered year, the Administrator
5 shall submit to the congressional defense committees a de-
6 tailed report on the plan developed under subsection (a).

7 “(3) The summaries and reports required by this sub-
8 section shall be submitted in unclassified form, but may
9 include a classified annex.

10 “(c) ELEMENTS OF BIENNIAL PLAN SUMMARY.—
11 Each summary of the plan submitted under subsection
12 (b)(1) shall include, at a minimum, the following:

13 “(1) A summary of the status of the nuclear
14 weapons stockpile, including the number and age of
15 warheads (including both active and inactive) for
16 each warhead type.

17 “(2) A summary of the status, plans, budgets,
18 and schedules for warhead life extension programs
19 and any other programs to modify, update, or re-
20 place warhead types.

21 “(3) A summary of the methods and informa-
22 tion used to determine that the nuclear weapons
23 stockpile is safe and reliable, as well as the relation-
24 ship of science-based tools to the collection and in-
25 terpretation of such information.

1 “(4) A summary of the status of the nuclear se-
2 curity enterprise, including programs and plans for
3 infrastructure modernization and retention of human
4 capital, as well as associated budgets and schedules.

5 “(5) A summary of the status of achieving the
6 purposes of the program established under section
7 4207(b).

8 “(6) Identification of any modifications or up-
9 dates to the plan since the previous summary or de-
10 tailed report was submitted under subsection (b).

11 “(7) Such other information as the Adminis-
12 trator considers appropriate.

13 “(d) ELEMENTS OF BIENNIAL DETAILED REPORT.—
14 Each detailed report on the plan submitted under sub-
15 section (b)(2) shall include, at a minimum, the following:

16 “(1) With respect to stockpile stewardship and
17 management—

18 “(A) the status of the nuclear weapons
19 stockpile, including the number and age of war-
20 heads (including both active and inactive) for
21 each warhead type;

22 “(B) for each five-year period occurring
23 during the period beginning on the date of the
24 report and ending on the date that is 20 years
25 after the date of the report—

1 “(i) the planned number of nuclear
2 warheads (including active and inactive)
3 for each warhead type in the nuclear weap-
4 ons stockpile; and

5 “(ii) the past and projected future
6 total lifecycle cost of each type of nuclear
7 weapon;

8 “(C) the status, plans, budgets, and sched-
9 ules for warhead life extension programs and
10 any other programs to modify, update, or re-
11 place warhead types;

12 “(D) a description of the process by which
13 the Administrator assesses the lifetimes, and re-
14 quirements for life extension or replacement, of
15 the nuclear and non-nuclear components of the
16 warheads (including active and inactive war-
17 heads) in the nuclear weapons stockpile;

18 “(E) a description of the process used in
19 recertifying the safety, security, and reliability
20 of each warhead type in the nuclear weapons
21 stockpile;

22 “(F) any concerns of the Administrator
23 which would affect the ability of the Adminis-
24 trator to recertify the safety, security, or reli-
25 ability of warheads in the nuclear weapons

1 stockpile (including active and inactive war-
2 heads);

3 “(G) mechanisms to provide for the manu-
4 facture, maintenance, and modernization of
5 each warhead type in the nuclear weapons
6 stockpile, as needed;

7 “(H) mechanisms to expedite the collection
8 of information necessary for carrying out the
9 stockpile management program required by sec-
10 tion 4204, including information relating to the
11 aging of materials and components, new manu-
12 facturing techniques, and the replacement or
13 substitution of materials;

14 “(I) mechanisms to ensure the appropriate
15 assignment of roles and missions for each na-
16 tional security laboratory and nuclear weapons
17 production facility, including mechanisms for
18 allocation of workload, mechanisms to ensure
19 the carrying out of appropriate modernization
20 activities, and mechanisms to ensure the reten-
21 tion of skilled personnel;

22 “(J) mechanisms to ensure that each na-
23 tional security laboratory has full and complete
24 access to all weapons data to enable a rigorous
25 peer-review process to support the annual as-

1 assessment of the condition of the nuclear weap-
2 ons stockpile required under section 4205;

3 “(K) mechanisms for allocating funds for
4 activities under the stockpile management pro-
5 gram required by section 4204, including allo-
6 cations of funds by weapon type and facility;
7 and

8 “(L) for each of the five fiscal years fol-
9 lowing the fiscal year in which the report is
10 submitted, an identification of the funds needed
11 to carry out the program required under section
12 4204.

13 “(2) With respect to science-based tools—

14 “(A) a description of the information need-
15 ed to determine that the nuclear weapons stock-
16 pile is safe and reliable;

17 “(B) for each science-based tool used to
18 collect information described in subparagraph
19 (A), the relationship between such tool and
20 such information and the effectiveness of such
21 tool in providing such information based on the
22 criteria developed pursuant to section 4202(a);
23 and

1 “(C) the criteria developed under section
2 4202(a) (including any updates to such cri-
3 teria).

4 “(3) An assessment of the stockpile stewardship
5 program under section 4201 by the Administrator,
6 in consultation with the directors of the national se-
7 curity laboratories, which shall set forth—

8 “(A) an identification and description of—

9 “(i) any key technical challenges to
10 the stockpile stewardship program; and

11 “(ii) the strategies to address such
12 challenges without the use of nuclear test-
13 ing;

14 “(B) a strategy for using the science-based
15 tools (including advanced simulation and com-
16 puting capabilities) of each national security
17 laboratory to ensure that the nuclear weapons
18 stockpile is safe, secure, and reliable without
19 the use of nuclear testing.

20 “(C) an assessment of the science-based
21 tools (including advanced simulation and com-
22 puting capabilities) of each national security
23 laboratory that exist at the time of the assess-
24 ment compared with the science-based tools ex-

1 pected to exist during the period covered by the
2 future-years nuclear security program; and

3 “(D) an assessment of the core scientific
4 and technical competencies required to achieve
5 the objectives of the stockpile stewardship pro-
6 gram and other weapons activities and weap-
7 ons-related activities of the Administration, in-
8 cluding—

9 “(i) the number of scientists, engi-
10 neers, and technicians, by discipline, re-
11 quired to maintain such competencies; and

12 “(ii) a description of any shortage of
13 such individuals that exists at the time of
14 the assessment compared with any short-
15 age expected to exist during the period cov-
16 ered by the future-years nuclear security
17 program.

18 “(4) With respect to the nuclear security infra-
19 structure—

20 “(A) a description of the modernization
21 and refurbishment measures the Administrator
22 determines necessary to meet the requirements
23 prescribed in—

24 “(i) the national security strategy of
25 the United States as set forth in the most

1 recent national security strategy report of
2 the President under section 108 of the Na-
3 tional Security Act of 1947 (50 U.S.C.
4 404a) if such strategy has been submitted
5 as of the date of the plan;

6 “(ii) the most recent quadrennial de-
7 fense review if such strategy has not been
8 submitted as of the date of the plan; and

9 “(iii) the most recent nuclear posture
10 review as of the date of the plan;

11 “(B) a schedule for implementing the
12 measures described under subparagraph (A)
13 during the 10-year period following the date of
14 the plan; and

15 “(C) the estimated levels of annual funds
16 the Administrator determines necessary to
17 carry out the measures described under sub-
18 paragraph (A), including a discussion of the cri-
19 teria, evidence, and strategies on which such es-
20 timated levels of annual funds are based.

21 “(5) With respect to the nuclear test readiness
22 of the United States—

23 “(A) an estimate of the period of time that
24 would be necessary for the Administrator to
25 conduct an underground test of a nuclear weap-

1 on once directed by the President to conduct
2 such a test;

3 “(B) a description of the level of test read-
4 iness that the Administrator, in consultation
5 with the Secretary of Defense, determines to be
6 appropriate;

7 “(C) a list and description of the workforce
8 skills and capabilities that are essential to car-
9 rying out an underground nuclear test at the
10 Nevada National Security Site;

11 “(D) a list and description of the infra-
12 structure and physical plants that are essential
13 to carrying out an underground nuclear test at
14 the Nevada National Security Site; and

15 “(E) an assessment of the readiness status
16 of the skills and capabilities described in sub-
17 paragraph (C) and the infrastructure and phys-
18 ical plants described in subparagraph (D).

19 “(6) With respect to the program established
20 under section 4207(b), a description of the progress
21 made to the date of the report in achieving the pur-
22 poses of such program.

23 “(7) Identification of any modifications or up-
24 dates to the plan since the previous summary or de-
25 tailed report was submitted under subsection (b).

1 “(e) NUCLEAR WEAPONS COUNCIL ASSESSMENT.—

2 (1) For each detailed report on the plan submitted under
3 subsection (b)(2), the Nuclear Weapons Council estab-
4 lished by section 179 of title 10, United States Code, shall
5 conduct an assessment that includes the following:

6 “(A) An analysis of the plan, including—

7 “(i) whether the plan supports the require-
8 ments of the national security strategy of the
9 United States or the most recent quadrennial
10 defense review, as applicable under subsection
11 (d)(4)(A), and the Nuclear Posture Review; and

12 “(ii) whether the modernization and refur-
13 bishment measures described under subpara-
14 graph (A) of paragraph (4) and the schedule
15 described under subparagraph (B) of such
16 paragraph are adequate to support such re-
17 quirements.

18 “(B) An analysis of whether the plan ade-
19 quately addresses the requirements for infrastruc-
20 ture recapitalization of the facilities of the nuclear
21 security enterprise.

22 “(C) If the Nuclear Weapons Council deter-
23 mines that the plan does not adequately support
24 modernization and refurbishment requirements
25 under subparagraph (A) or the nuclear security en-

1 terprise facilities infrastructure recapitalization re-
2 quirements under subparagraph (B), a risk assess-
3 ment with respect to—

4 “(i) supporting the annual certification of
5 the nuclear weapons stockpile; and

6 “(ii) maintaining the long-term safety, se-
7 curity, and reliability of the nuclear weapons
8 stockpile.

9 “(2) Not later than 180 days after the date on which
10 the Administrator submits the plan under subsection
11 (b)(2), the Nuclear Weapons Council shall submit to the
12 congressional defense committees a report detailing the as-
13 sessment required under paragraph (1).

14 “(f) DEFINITIONS.—In this section:

15 “(1) The term ‘budget’, with respect to a fiscal
16 year, means the budget for that fiscal year that is
17 submitted to Congress by the President under sec-
18 tion 1105(a) of title 31, United States Code.

19 “(2) The term ‘future-years nuclear security
20 program’ means the program required by section
21 3253 of the National Nuclear Security Administra-
22 tion Act (50 U.S.C. 2453).

23 “(3) The term ‘nuclear security budget mate-
24 rials’, with respect to a fiscal year, means the mate-
25 rials submitted to Congress by the Administrator for

1 the National Nuclear Security Administration in
2 support of the budget for that fiscal year.

3 “(4) The term ‘quadrennial defense review’
4 means the review of the defense programs and poli-
5 cies of the United States that is carried out every
6 four years under section 118 of title 10, United
7 States Code.

8 “(5) The term ‘weapons activities’ means each
9 activity within the budget category of weapons ac-
10 tivities in the budget of the National Nuclear Secu-
11 rity Administration.

12 “(6) The term ‘weapons-related activities’
13 means each activity under the Department of En-
14 ergy that involves nuclear weapons, nuclear weapons
15 technology, or fissile or radioactive materials, includ-
16 ing activities related to—

17 “(A) nuclear nonproliferation;

18 “(B) nuclear forensics;

19 “(C) nuclear intelligence;

20 “(D) nuclear safety; and

21 “(E) nuclear incident response.”.

22 (2) CLERICAL AMENDMENT.—The table of con-
23 tents for the Atomic Energy Defense Act is amended
24 by striking the item relating to section 4203 and in-
25 serting the following new item:

“Sec. 4203. Nuclear weapons stockpile stewardship, management, and infrastructure plan.”.

1 (b) REPEAL OF REQUIREMENT FOR BIENNIAL RE-
2 PORT ON STOCKPILE STEWARDSHIP CRITERIA.—

3 (1) IN GENERAL.—Section 4202 of the Atomic
4 Energy Defense Act (50 U.S.C. 2522) is amended
5 by striking subsections (c) and (d).

6 (2) TECHNICAL AMENDMENT.—The heading of
7 such section is amended to read as follows:
8 “**STOCKPILE STEWARDSHIP CRITERIA**”.

9 (3) CLERICAL AMENDMENT.—The table of con-
10 tents for the Atomic Energy Defense Act is amended
11 by striking the item relating to section 4202 and in-
12 serting the following new item:

“Sec. 4202. Stockpile stewardship criteria.”.

13 (c) REPEAL OF REQUIREMENT FOR BIENNIAL PLAN
14 ON MODERNIZATION AND REFURBISHMENT OF THE NU-
15 CLEAR SECURITY COMPLEX.—Section 4203A of the
16 Atomic Energy Defense Act (50 U.S.C. 2523A) is re-
17 pealed.

18 (d) REPEAL OF REQUIREMENT FOR ANNUAL UP-
19 DATE TO STOCKPILE MANAGEMENT PROGRAM PLAN.—
20 Section 4204 of the Atomic Energy Defense Act (50
21 U.S.C. 2524) is amended—

22 (1) by striking subsections (c) and (d); and

1 (2) by redesignating subsection (e) as sub-
2 section (c).

3 (e) NUCLEAR TEST BAN READINESS PROGRAM.—

4 Section 4207 of the Atomic Energy Defense Act (50
5 U.S.C. 2527) is amended by striking subsection (e).

6 (f) REPEAL OF REQUIREMENT FOR REPORTS ON NU-
7 CLEAR TEST READINESS.—

8 (1) AEDA.—Section 4208 of the Atomic En-
9 ergy Defense Act (50 U.S.C. 2528) is repealed.

10 (2) NDAA FISCAL YEAR 1996.—Section 3152 of
11 the National Defense Authorization Act for Fiscal
12 Year 1996 (Public Law 104–106; 110 Stat. 623) is
13 repealed.

1 **SEC. 3135 [Log #18002]. REPEAL OF CERTAIN REPORTING**
2 **REQUIREMENTS.**

3 (a) GAO ENVIRONMENTAL MANAGEMENT RE-
4 PORTS.—Section 3134 of the National Defense Authoriza-
5 tion Act for Fiscal Year 2010 (Public Law 111–84; 123
6 Stat. 2713) is amended—

7 (1) in subsection (c)—

8 (A) in paragraph (1), by striking “The
9 Comptroller” and all that follows through
10 “(2),” and inserting “Beginning on the date on
11 which the report under subsection (b)(2) is sub-
12 mitted, the Comptroller General shall conduct a
13 review”;

14 (B) by striking paragraph (2);

15 (C) by redesignating paragraph (3) as
16 paragraph (2); and

17 (D) in paragraph (2), as so redesignated,
18 by striking “the end of the period described in
19 paragraph (2)” and inserting “August 30,
20 2012”; and

21 (2) in subsection (d)—

22 (A) in paragraph (1), by striking “sub-
23 section (c)(3)” and inserting “subsection
24 (c)(2)”; and

25 (B) in paragraph (2), by striking “90
26 days” and all that follows through “(c)(3)” and

1 inserting “April 30, 2016, or the date that is
2 210 days after the date on which all American
3 Recovery and Reinvestment Act funds have
4 been obligated or expended (or are no longer
5 available to be obligated or expended), which-
6 ever is earlier”.

7 (b) WORKFORCE RESTRUCTURING PLAN UP-
8 DATES.—

9 (1) IN GENERAL.—Section 4604 of the Atomic
10 Energy Defense Act (50 U.S.C. 2704), as amended
11 by section 3131(q)(1), is amended—

12 (A) in subsection (b)(1), by striking “and
13 any updates of the plan under subsection (e)”;

14 (B) by striking subsection (e);

15 (C) in subsection (f)—

16 (i) by striking paragraph (2); and

17 (ii) by redesignating paragraph (3), as
18 added by such section 3131(q)(1), as para-
19 graph (2); and

20 (D) by redesignating subsections (f) and
21 (g) as subsections (e) and (f), respectively.

22 (2) CONFORMING AMENDMENT.—Section
23 4643(d)(1) of the Atomic Energy Defense Act (50
24 U.S.C. 2733(d)(1)) is amended by striking “section
25 4604(g)” and inserting “section 4604(f)”.

1 (c) UNCLASSIFIED CONTROLLED NUCLEAR INFOR-
2 MATION QUARTERLY REPORT.—Section 148 of the Atom-
3 ic Energy Act of 1954 (42 U.S.C. 2168) is amended by
4 striking subsection e.

1 **Subtitle D—Reports**

2 **SEC. 3141 [Log #27245]. NOTIFICATION OF NUCLEAR CRITI-**
3 **CALITY AND NON-NUCLEAR INCIDENTS.**

4 (a) NOTIFICATION.—

5 (1) IN GENERAL.—The Atomic Energy Defense
6 Act (50 U.S.C. 2501 et seq.) is amended by adding
7 after section 4645, as added by section 3151, the
8 following new section:

9 **“SEC. 4646. NOTIFICATION OF NUCLEAR CRITICALITY AND**
10 **NON-NUCLEAR INCIDENTS.**

11 “(a) NOTIFICATION.—The Secretary of Energy and
12 the Administrator, as the case may be, shall submit to
13 the appropriate congressional committees a notification of
14 a nuclear criticality incident resulting from a covered pro-
15 gram that results in an injury or fatality or results in the
16 shut-down, or partial shut-down, of a covered facility by
17 not later than 15 days after the date of such incident.

18 “(b) ELEMENTS OF NOTIFICATION.—Each notifica-
19 tion submitted under subsection (a) shall include the fol-
20 lowing:

21 “(1) A description of the incident, including the
22 cause of the incident.

23 “(2) In the case of a criticality incident, wheth-
24 er the incident caused a facility, or part of a facility,
25 to be shut-down.

1 “(3) The affect, if any, on the mission of the
2 Administration or the Office of Environmental Man-
3 agement of the Department of Energy.

4 “(4) Any corrective action taken in response to
5 the incident.

6 “(c) DATABASE.—(1) The Secretary and the Admin-
7 istrator shall each maintain a record of incidents described
8 in paragraph (2).

9 “(2) An incident described in this paragraph is any
10 of the following incidents resulting from a covered pro-
11 gram:

12 “(A) A nuclear criticality incident that results
13 in an injury or fatality or results in the shut-down,
14 or partial shut-down, of a covered facility.

15 “(B) A non-nuclear incident that results in seri-
16 ous bodily injury or fatality at a covered facility.

17 “(d) COOPERATION.—In carrying out this section,
18 the Secretary and the Administrator shall ensure that
19 each management and operating contractor of a covered
20 facility cooperates in a timely manner.

21 “(e) DEFINITIONS.—In this section:

22 “(1) The term ‘appropriate congressional com-
23 mittees’ means—

24 “(A) the congressional defense committees;
25 and

1 “(B) the Committee on Energy and Com-
2 merce of the House of Representatives and the
3 Committee on Energy and Natural Resources of
4 the Senate.

5 “(2) The term ‘covered facility’ means—

6 “(A) a facility of the nuclear security en-
7 terprise; and

8 “(B) a facility conducting activities for the
9 defense environmental cleanup program of the
10 Office of Environmental Management of the
11 Department of Energy.

12 “(3) The term ‘covered program’ means—

13 “(A) programs of the Administration; and

14 “(B) defense environmental cleanup pro-
15 grams of the Office of Environmental Manage-
16 ment of the Department of Energy.”.

17 (2) CLERICAL AMENDMENT.—The table of con-
18 tents at the beginning of the Atomic Energy Defense
19 Act is amended by inserting after the item relating
20 to section 4645 the following new item:

“Sec. 4646. Notification of nuclear criticality and non-nuclear incidents.”.

21 (b) REPORT.—

22 (1) IN GENERAL.—Not later than 90 days after
23 the date of the enactment of this Act, the Secretary
24 of Energy and the Administrator for Nuclear Secu-
25 rity shall each submit to the appropriate congres-

1 sional committees a report detailing any incidents
2 described in paragraph (2) that occurred during the
3 10-year period before the date of the report.

4 (2) INCIDENTS DESCRIBED.—An incident de-
5 scribed in this paragraph is any of the following inci-
6 dents that occurred as a result of programs of the
7 National Nuclear Security Administration or defense
8 environmental cleanup programs of the Office of En-
9 vironmental Management of the Department of En-
10 ergy:

11 (A) A nuclear criticality incident that re-
12 sulted in an injury or fatality or resulted in the
13 shut-down, or partial shut-down, of a facility of
14 the nuclear security enterprise or a facility con-
15 ducting activities for such defense environ-
16 mental cleanup programs.

17 (B) A non-nuclear incident that results in
18 serious bodily injury or fatality at such a facil-
19 ity.

20 (3) APPROPRIATE CONGRESSIONAL COMMIT-
21 TEES.—In this subsection, the term “appropriate
22 congressional committees” means—

23 (A) the congressional defense committees;
24 and

1 (B) the Committee on Energy and Com-
2 merce of the House of Representatives and the
3 Committee on Energy and Natural Resources of
4 the Senate.

1 **SEC. 3142 [Log #18060]. REPORTS ON LIFETIME EXTENSION**
2 **PROGRAMS.**

3 (a) PROTOTYPES.—The Atomic Energy Defense Act
4 (50 U.S.C. 2501 et seq.) is amended by inserting after
5 section 4214 the following new section:

6 **“SEC. 4215. REPORTS ON LIFETIME EXTENSION PROGRAMS.**

7 “(a) REPORTS REQUIRED.—Before proceeding be-
8 yond phase 6.2 activities with respect to any lifetime ex-
9 tension program, the director of the national security lab-
10 oratory responsible for such program shall submit to the
11 congressional defense committees a report on the lifetime
12 extension option selected for such program, including—

13 “(1) whether such option selected is refurbish-
14 ment, reuse, or replacement; and

15 “(2) why such option was selected, including an
16 assessment of the advantages and disadvantages of
17 the two options not selected.

18 “(b) PHASE 6.2 ACTIVITIES DEFINED.—In this sec-
19 tion, the term ‘phase 6.2 activities’ means, with respect
20 to a lifetime extension program, the phase 6.2 feasibility
21 study and option down-select.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 at the beginning of the Atomic Energy Defense Act is
24 amended by inserting after the item relating to section
25 4214 the following new item:

“Sec. 4215. Reports on lifetime extension programs.”.

1 **SEC. 3143 [log #18079]. NATIONAL ACADEMY OF SCIENCES**
2 **STUDY ON PEER REVIEW AND DESIGN COM-**
3 **PETITION RELATED TO NUCLEAR WEAPONS.**

4 (a) STUDY.—Not later than 60 days after the date
5 of the enactment of this Act, the Administrator for Nu-
6 clear Security shall enter into an agreement with the Na-
7 tional Academy of Sciences to conduct a study of peer re-
8 view and design competition related to nuclear weapons.

9 (b) ELEMENTS.—The study required by subsection
10 (a) shall include an assessment of—

11 (1) the quality and effectiveness of peer review
12 of designs, development plans, engineering and sci-
13 entific activities, and priorities related to both nu-
14 clear and non-nuclear aspects of nuclear weapons;

15 (2) incentives for effective peer review;

16 (3) the potential effectiveness, efficiency, and
17 cost of alternative methods of conducting peer review
18 and design competition related to both nuclear and
19 non-nuclear aspects of nuclear weapons, as com-
20 pared to current methods;

21 (4) the known instances where current peer re-
22 view practices and design competition succeeded or
23 failed to find problems or potential problems; and

24 (5) such other matters related to peer review
25 and design competition related to nuclear weapons
26 as the Administrator considers appropriate.

1 (c) COOPERATION AND ACCESS TO INFORMATION
2 AND PERSONNEL.—The Administrator shall ensure that
3 the National Academy of Sciences receives full and timely
4 cooperation, including full access to information and per-
5 sonnel, from the National Nuclear Security Administra-
6 tion and the management and operating contractors of the
7 Administration for the purposes of conducting the study
8 under subsection (a).

9 (d) REPORT.—

10 (1) IN GENERAL.—The National Academy of
11 Sciences shall submit to the Administrator a report
12 containing the results of the study conducted under
13 subsection (a) and any recommendations resulting
14 from the study.

15 (2) SUBMITTAL TO CONGRESS.—Not later than
16 December 15, 2014, the Administrator shall submit
17 to the Committees on Armed Services of the House
18 of Representatives and Senate the report submitted
19 under paragraph (1) and any comments or rec-
20 ommendations of the Administrator with respect to
21 the report.

22 (3) FORM.—The report submitted under para-
23 graph (1) shall be in unclassified form, but may in-
24 clude a classified annex.

1 **SEC. 3145 [Log #27244]. STUDY ON REUSE OF PLUTONIUM**
2 **PITS.**

3 (a) STUDY.—Not later than 120 days after the date
4 of the enactment of this Act, the Administrator for Nu-
5 clear Security shall submit to the congressional defense
6 committees a study of plutonium pits, including—

7 (1) the availability of plutonium pits—

8 (A) as of the date of the report; and

9 (B) after such date as a result of the dis-
10 mantlement of nuclear weapons; and

11 (2) an assessment of the potential for reusing
12 plutonium pits in future life extension programs.

13 (b) MATTERS INCLUDED.—The study submitted
14 under subsection (a) shall include the following:

15 (1) The feasibility and practicability of potential
16 full or partial reuse options with respect to pluto-
17 nium pits.

18 (2) The benefits and risks of reusing plutonium
19 pits.

20 (3) The potential costs and cost savings of such
21 reuse.

22 (4) The effects of such reuse on the require-
23 ments for plutonium pit manufacturing.

1 **Subtitle E—Other Matters**

2 **SEC. 3151 [Log #18748]. USE OF PROBABILISTIC RISK AS-**
3 **SESSMENT TO ENSURE NUCLEAR SAFETY.**

4 (a) IN GENERAL.—The Atomic Energy Defense Act
5 (50 U.S.C. 2501 et seq.) is amended by adding after sec-
6 tion 4644 the following new section:

7 **“SEC. 4645. USE OF PROBABILISTIC RISK ASSESSMENT TO**
8 **ENSURE NUCLEAR SAFETY OF FACILITIES OF**
9 **THE ADMINISTRATION AND THE OFFICE OF**
10 **ENVIRONMENTAL MANAGEMENT.**

11 “(a) NUCLEAR SAFETY AT NNSA AND DOE FACILI-
12 TIES.—The Administrator and the Secretary of Energy
13 shall ensure that the methods for assessing, certifying,
14 and overseeing nuclear safety at the facilities specified in
15 subsection (b) use national and international standards
16 and nuclear industry best practices, including probabilistic
17 or quantitative risk assessment if sufficient data exists.

18 “(b) FACILITIES SPECIFIED.—Subsection (a) shall
19 apply—

20 “(1) to the Administrator with respect to the
21 national security laboratories and the nuclear weap-
22 ons production facilities; and

23 “(2) to the Secretary of Energy with respect to
24 defense nuclear facilities of the Office of Environ-
25 mental Management of the Department of Energy.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 at the beginning of the Atomic Energy Defense Act is
3 amended by inserting after the item relating to section
4 4644 the following new item:

“Sec. 4645. Use of probabilistic risk assessment to ensure nuclear safety of facilities of the Administration and the Office of Environmental Management.”.

1 **SEC. 3152 [Log #18750]. ADVICE TO PRESIDENT AND CON-**
2 **GRESS REGARDING SAFETY, SECURITY, AND**
3 **RELIABILITY OF UNITED STATES NUCLEAR**
4 **WEAPONS STOCKPILE AND NUCLEAR**
5 **FORCES.**

6 (a) IN GENERAL.—Section 1305 of the National De-
7 fense Authorization Act for Fiscal Year 1998 (42 U.S.C.
8 7274p) is—

9 (1) transferred to the Atomic Energy Defense
10 Act (50 U.S.C. 2501 et seq.);

11 (2) inserted after section 4215 of such Act, as
12 added by section 3142(a);

13 (3) redesignated as section 4216; and

14 (4) amended—

15 (A) by amending subsection (f) to read as
16 follows:

17 “(f) EXPRESSION OF INDIVIDUAL VIEWS.—No indi-
18 vidual, including representatives of the President, may
19 take any action against, or otherwise constrain, a director
20 of a national security laboratory or a nuclear weapons pro-
21 duction facility, a member of the Joint Nuclear Weapons
22 Council, or the Commander of United States Strategic
23 Command from presenting the professional views of the
24 individual to the President, the National Security Council,
25 or Congress regarding—

1 “(1) the safety, security, reliability, or credi-
2 bility of the nuclear weapons stockpile and nuclear
3 forces; or

4 “(2) the status of, and plans for, the capabili-
5 ties and infrastructure that support and sustain the
6 nuclear weapons stockpile and nuclear forces.”; and

7 (B) by redesignating subsection (g) as sub-
8 section (h); and

9 (C) by inserting after subsection (f) the
10 following new subsection (g):

11 “(g) DELIVERY OF CLASSIFIED INFORMATION TO
12 CONGRESS.—(1) The directors of the national security
13 laboratories, the directors of the nuclear weapons produc-
14 tion facilities, the members of the Joint Nuclear Weapons
15 Council, and the Commander of the United States Stra-
16 tegic Command are each authorized to provide directly to
17 Congress classified information with respect to matters de-
18 scribed by paragraphs (1) or (2) of subsection (f).

19 “(2) The Administrator and Secretary of Defense
20 shall ensure that direct classified mail channels are estab-
21 lished between the national security laboratories, nuclear
22 weapons production facilities, members of the Joint Nu-
23 clear Weapons Council, the United States Strategic Com-
24 mand, and the congressional defense committees to carry
25 out this subsection.”.

1 (b) CONFORMING AMENDMENT.—Section 4215 of the
2 Atomic Energy Defense Act, as added by subsection (a),
3 is amended—

4 (1) by striking “nuclear weapons laboratories”
5 each place it appears and inserting “national secu-
6 rity laboratories”;

7 (2) by striking “nuclear weapons laboratory”
8 each place it appears and inserting “national secu-
9 rity laboratory”;

10 (3) by striking “nuclear weapons production
11 plants” each place it appears and inserting “nuclear
12 weapons production facilities”;

13 (4) by striking “nuclear weapons production
14 plant” each place it appears and inserting “nuclear
15 weapons production facility”; and

16 (5) by amending subsection (h), as redesignated
17 by subsection (a)(4)(B), to read as follows:

18 “(h) REPRESENTATIVE OF THE PRESIDENT DE-
19 FINED.—In this section, the term ‘representative of the
20 President’ means the following:

21 “(1) Any official of the Department of Defense
22 or the Department of Energy who is appointed by
23 the President and confirmed by the Senate.

24 “(2) Any member or official of the National Se-
25 curity Council.

1 “(3) Any member or official of the Joint Chiefs
2 of Staff.

3 “(4) Any official of the Office of Management
4 and Budget.”.

5 (c) CLERICAL AMENDMENT.—The table of contents
6 at the beginning of the Atomic Energy Defense Act is
7 amended by inserting after the item relating to section
8 4215 the following new item:

 “Sec. 4216. Advice to President and Congress regarding safety, security, and
 reliability of United States nuclear weapons stockpile.”.

1 **SEC. 3153 [Log #18003]. CLASSIFICATION OF CERTAIN RE-**
2 **STRICTED DATA.**

3 Section 142 of the Atomic Energy Act of 1954 (42
4 U.S.C. 2162) is amended—

5 (1) in subsection d.—

6 (A) by inserting “(1)” before “The Com-
7 mission”; and

8 (B) by adding at the end the following:

9 “(2) The Commission may restore to the Restricted
10 Data category information related to the design of nuclear
11 weapons (in this subsection referred to as ‘design informa-
12 tion’) removed under paragraph (1) if the Commission and
13 the Department of Defense jointly determines that—

14 “(A) the programmatic requirements that
15 caused the design information to be removed from
16 the Restricted Data category are no longer applica-
17 ble or have diminished;

18 “(B) the design information would be more ap-
19 propriately protected as Restricted Data; and

20 “(C) restoring the design information to the
21 Restricted Data category is in the interest of na-
22 tional security.

23 “(3) In carrying out paragraph (2), design informa-
24 tion shall be restored to the Restricted Data category in
25 accordance with regulations implemented pursuant to this
26 section.”; and

1 (2) in subsection e.—

2 (A) by inserting “(1)” before “The Com-
3 mission”;

4 (B) by striking “Central” and inserting
5 “National”; and

6 (C) by adding at the end the following:

7 “(2) The Commission may restore to the Restricted
8 Data category information related to foreign nuclear pro-
9 grams (in this subsection referred to as ‘foreign nuclear
10 information’) removed under paragraph (1) if the Com-
11 mission and the Director of National Intelligence jointly
12 determine that—

13 “(A) the programmatic requirements that
14 caused the foreign nuclear information to be re-
15 moved from the Restricted Data category are no
16 longer applicable or have diminished;

17 “(B) the foreign nuclear information would be
18 more appropriately protected as Restricted Data;
19 and

20 “(C) restoring the foreign nuclear information
21 to the Restricted Data category is in the interest of
22 national security.

23 “(3) In carrying out paragraph (2), foreign nuclear
24 information shall be restored to the Restricted Data cat-

1 egory in accordance with regulations implemented pursu-
2 ant to this section.”.

1 **SEC. 3154 [Log #27246]. INDEPENDENT COST ASSESSMENTS**
2 **FOR LIFE EXTENSION PROGRAMS, NEW NU-**
3 **CLEAR FACILITIES, AND OTHER MATTERS.**

4 (a) **COST ASSESSMENT.**—To inform the decisions
5 made by the Nuclear Weapons Council established by sec-
6 tion 179 of title 10, United States Code, the Secretary
7 of Defense, acting through the Director of Cost Assess-
8 ment and Program Evaluation and in coordination with
9 the Administrator for Nuclear Security, shall assess the
10 cost of options and alternatives for—

11 (1) new nuclear weapon life extension pro-
12 grams; and

13 (2) new nuclear facilities within the nuclear se-
14 curity enterprise that are estimated to cost more
15 than \$500,000,000.

16 (b) **REPORT.**—Not later than 30 days after the date
17 on which each assessment conducted under subsection (a)
18 is completed, the Administrator for Nuclear Security and
19 the Secretary of Defense shall jointly submit to the con-
20 gressional defense committees a report containing the re-
21 sults of such assessment.

22 (c) **FORM.**—The report required under subsection (b)
23 shall be submitted in unclassified form, but may include
24 a classified annex.

25 (d) **AUTHORITY FOR FURTHER ASSESSMENTS.**—
26 Upon the request of the Administrator for Nuclear Secu-

1 rity, the Secretary of Defense, acting through the Director
2 of Cost Assessment and Program Evaluation and in con-
3 sultation with the Administrator, may conduct a cost as-
4 sessment of any initiative of the National Nuclear Security
5 Administration that is estimated to cost more than
6 \$500,000,000.

1 **TITLE XXXII—DEFENSE NU-**
2 **CLEAR FACILITIES SAFETY**
3 **BOARD**

Sec. 3201 [Log # 33233]. Authorization.

Sec. 3202 [Log #18749]. Improvements to the Defense Nuclear Facilities
Safety Board.

1 **SEC. 3201 [Log # 33233]. AUTHORIZATION.**

2 There is authorized to be appropriated for fiscal year
3 2013 \$31,415,000 for the operation of the Defense Nu-
4 clear Facilities Safety Board under chapter 21 of the
5 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

1 **SEC. 3202 [Log #18749]. IMPROVEMENTS TO THE DEFENSE**
2 **NUCLEAR FACILITIES SAFETY BOARD.**

3 (a) ESTABLISHMENT.—Section 311 of the Atomic
4 Energy Act of 1954 (42 U.S.C. 2286) is amended—

5 (1) in subsection (b)—

6 (A) in paragraph (3), by striking “Energy
7 or any contractor of the Department of En-
8 ergy” and inserting “Energy, the National Nu-
9 clear Security Administration, or any contractor
10 of the Department or Administration”; and

11 (B) by striking paragraph (4);

12 (2) in subsection (c)—

13 (A) in the heading, by striking “AND VICE
14 CHAIRMAN” and inserting “, VICE CHAIRMAN,
15 AND MEMBERS”;

16 (B) in paragraph (2), by striking “The
17 Chairman” and inserting “In accordance with
18 paragraphs (5) and (6), the Chairman”; and

19 (C) by adding at the end the following new
20 paragraphs:

21 “(5) Each member of the Board, including the Chair-
22 man and Vice Chairman, shall—

23 “(A) have equal responsibility and authority in
24 establishing decisions and determining actions of the
25 Board regarding recommendations, budgets, senior
26 staff, hearings and witnesses, investigations, sub-

1 poenas, and setting policies and regulations gov-
2 erning operations of the Board;

3 “(B) have full, simultaneous access to all infor-
4 mation relating to the performance of the Board’s
5 functions, powers, and mission; and

6 “(C) have one vote.

7 “(6) Any member of the Board may propose an indi-
8 vidual to be appointed to a senior staff position of the
9 Board and require a determination by the Board under
10 paragraph (5)(A) on whether such individual shall be ap-
11 pointed.”;

12 (3) in subsection (d)—

13 (A) in paragraph (1), by striking “Except
14 as provided under paragraph (2), the” and in-
15 serting “The”;

16 (B) by striking paragraph (2); and

17 (C) by redesignating paragraph (3) as
18 paragraph (2); and

19 (4) by amending subsection (e) to read as fol-
20 lows:

21 “(e) QUORUM.—(1) Three members of the Board
22 shall constitute a quorum.

23 “(2) A quorum shall be required to take the actions
24 of the Board described in subsection (c)(5)(A).”.

25 (b) MISSION AND FUNCTIONS.—

1 (1) IN GENERAL.—Section 312 of the Atomic
2 Energy Act of 1954 (42 U.S.C. 2286a) is amend-
3 ed—

4 (A) in the heading, by inserting “**MISSION**
5 **AND**” before “**FUNCTIONS**”;

6 (B) by redesignating subsections (a) and
7 (b) as subsections (b) and (c), respectively;

8 (C) by inserting before subsection (b), as
9 so redesignated, the following new subsection
10 (a):

11 “(a) MISSION.—The mission of the Board shall be
12 to provide independent analysis, advice, and recommenda-
13 tions to the Secretary of Energy to ensure that—

14 “(1) risks to public health and safety at the de-
15 fense nuclear facilities of the Department of Energy
16 are as low as reasonably practicable; and

17 “(2) public health and safety are adequately
18 protected.”;

19 (D) in subsection (b), as so redesignated—

20 (i) in the heading, by striking “IN
21 GENERAL” and inserting “FUNCTIONS”;

22 (ii) in paragraph (1), by inserting
23 “risks to public health and safety are as
24 low as reasonably practicable and” after
25 “to ensure that”;

1 (iii) in paragraph (4), by striking “to
2 ensure adequate protection of public health
3 and safety” each place it appears and in-
4 serting “to ensure that risks to public
5 health and safety are as low as reasonably
6 practicable and public health and safety
7 are adequately protected”; and

8 (iv) in paragraph (5)—

9 (I) by striking “to ensure ade-
10 quate protection of public health and
11 safety” and inserting “to ensure that
12 risks to public health and safety are
13 as low as reasonably practicable and
14 public health and safety are ade-
15 quately protected”;

16 (II) by inserting “, and specifi-
17 cally assess,” after “shall consider”;
18 and

19 (III) by inserting “, the costs and
20 benefits, and the practicability” after
21 “economic feasibility”.

22 (2) CLERICAL AMENDMENT.—The table of con-
23 tents for the Atomic Energy Act of 1954 is amended
24 by striking the item relating to section 312 and in-
25 serting the following new item:

“Sec. 312. Mission and functions of the board.”.

1 (c) POWERS.—Section 313 of the Atomic Energy Act
2 of 1954 (42 U.S.C. 2286b) is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (1), by striking “or a
5 member authorized by the Board”; and

6 (B) in paragraph (2)(A), by striking the
7 first sentence and inserting the following: “Sub-
8 poenas may be issued only with the approval of
9 a majority of the members of the Board and
10 shall be served by any person designated by the
11 Chairman, any member, or any person as other-
12 wise provided by law.”; and

13 (2) in subsection (b), by adding at the end the
14 following new paragraph:

15 “(3) Of the funds appropriated to the Board to carry
16 out this chapter, each member of the Board, other than
17 the Chairman, may employ at least one technical advisor
18 to serve in the immediate office of the member to provide
19 assistance to the member in carrying out the responsibil-
20 ities of the member under this chapter. If employed in the
21 immediate office of a member, such advisor shall report
22 to such member and, notwithstanding section
23 311(c)(2)(A), may not be subject to the appointment, di-
24 rection, or supervision of the Chairman.”; and

1 (3) in subsection (j)(2), by striking “section
2 312(1)” and inserting “section 312(b)(1)”.

3 (d) BOARD RECOMMENDATIONS.—Section 315 of the
4 Atomic Energy Act of 1954 (42 U.S.C. 2286d) is amended
5 to read as follows:

6 **“SEC. 315. BOARD RECOMMENDATIONS.**

7 “(a) DRAFTS AND SUBMISSION OF RECOMMENDA-
8 TIONS.—(1) Subject to subsections (f) and (g), the Board
9 shall submit to the Secretary of Energy a draft of any
10 recommendations under section 312 and any related find-
11 ings, supporting data, and analyses before the date on
12 which such recommendations are finalized.

13 “(2) The Secretary may provide to the Board com-
14 ments on the recommendations not later than 45 days
15 after the date on which the Secretary receives the draft
16 submission of the Board under paragraph (1). The Board
17 may grant, upon request by the Secretary, not more than
18 an additional 30 days for the Secretary to submit com-
19 ments to the Board.

20 “(3) After the period of time in which the Secretary
21 may provide recommendations under paragraph (2)
22 elapses, the Board may publish in the Federal Register
23 either the original or a revised version of the recommenda-
24 tions based on the comments of the Secretary, together
25 with a request for the submission to the Board of public

1 comments on such recommendations. Interested persons
2 shall have 30 days after the date of publication in which
3 to submit comments, data, views, or arguments to the
4 Board concerning the recommendations. The Board shall
5 furnish the Secretary with copies of all comments, data,
6 views, and arguments submitted to it under this para-
7 graph.

8 “(b) DISPOSITION OF RECOMMENDATIONS.—(1) Not
9 later than 60 days after publication of the recommenda-
10 tions under subsection (a)(3), the Secretary of Energy
11 shall publish in the Federal Register and transmit to the
12 Board, in writing, a statement of the final decision of the
13 Secretary with respect to whether the Secretary accepts
14 or rejects, in whole or in part, such recommendations, in-
15 cluding a description of any actions to be taken in re-
16 sponse to the recommendations, any expected schedule,
17 cost, technical, or program impacts of such recommenda-
18 tions, and the views of the Secretary regarding such rec-
19 ommendations. The Board may grant, upon request by the
20 Secretary, not more than an additional 30 days for the
21 Secretary to transmit such statement to the Board.

22 “(2) The Board may hold hearings for the purpose
23 of obtaining public comments on its recommendations and
24 the disposition of such recommendations by the Secretary
25 of Energy.

1 “(c) REJECTION OF RECOMMENDATIONS.—If the
2 Secretary of Energy, in a statement under subsection
3 (b)(1), rejects (in whole or part) any recommendation
4 made by the Board under subsection (a), the Board may
5 transmit to the Secretary and the Committees on Armed
6 Services and Appropriations of the Senate and the House
7 of Representatives a letter describing the views and per-
8 spectives of the Board regarding the Secretary’s dispo-
9 sition of the Board’s recommendations.

10 “(d) IMPLEMENTATION PLAN.—The Secretary of En-
11 ergy shall prepare a plan for the implementation of each
12 Board recommendation, or part of a recommendation, that
13 is accepted by the Secretary in the statement under sub-
14 section (b)(1). Not later than 120 days after the date on
15 which such statement is published, the Secretary shall
16 transmit to the Board such implementation plan. The Sec-
17 retary may implement any such recommendation (or part
18 of any such recommendation) before, on, or after the date
19 on which the Secretary transmits the implementation plan
20 to the Board under this subsection.

21 “(e) IMPLEMENTATION.—(1) Subject to paragraph
22 (2), not later than one year after the date on which the
23 Secretary of Energy transmits an implementation plan
24 with respect to a recommendation (or part thereof) under
25 subsection (d), the Secretary shall carry out and complete

1 the implementation plan. If complete implementation of
2 the plan takes more than one year, the Secretary of En-
3 ergy shall submit a report to the Committees on Armed
4 Services and on Appropriations of the Senate and the
5 House of Representatives setting forth the reasons for the
6 delay and when implementation will be completed.

7 “(2) If the Secretary of Energy determines that the
8 implementation of a Board recommendation (or part
9 thereof) is impracticable because of budgetary consider-
10 ations, or that the implementation would affect the Sec-
11 retary’s ability to meet the annual nuclear weapons stock-
12 pile requirements established pursuant to section 91 of
13 this Act, the Secretary shall submit to the President and
14 the Committees on Armed Services and Appropriations of
15 the Senate and the House of Representatives a report con-
16 taining the recommendation and the Secretary’s deter-
17 mination.

18 “(f) IMMINENT OR SEVERE THREAT.—(1) In any
19 case in which the Board determines that a recommenda-
20 tion submitted to the Secretary of Energy under section
21 312 relates to an imminent or severe threat to public
22 health and safety, the Board and the Secretary of Energy
23 shall proceed under this subsection in lieu of subsections
24 (a) and (b).

1 “(2) The Board shall transmit to the President, the
2 Secretary of Defense, and the Secretary of Energy a rec-
3 ommendation relating to an imminent or severe threat to
4 public health and safety. Not later than 15 days after the
5 date on which such recommendation is received, the Sec-
6 retary of Energy shall submit the comments and views of
7 the Secretary to the President. The President shall review
8 such comments and views and shall make the decision con-
9 cerning the acceptance or rejection of the Board’s rec-
10 ommendation.

11 “(3) After receipt by the President of the rec-
12 ommendation from the Board under this subsection, the
13 Board shall promptly make such recommendation avail-
14 able to the public and shall submit such recommendation
15 to the Committees on Armed Services and Appropriations
16 of the Senate and the House of Representatives. The
17 President shall promptly notify such committees of the de-
18 cision made by the President under paragraph (2) and the
19 reasons for that decision.

20 “(g) LIMITATION.—Notwithstanding any other provi-
21 sion of this section, the requirements to make information
22 available to the public under this section—

23 “(1) shall not apply in the case of information
24 that is classified; and

1 “(2) shall be subject to the orders and regula-
2 tions issued by the Secretary of Energy under sec-
3 tions 147 and 148 of this Act to prohibit dissemina-
4 tion of certain information.”.

5 (e) REPORTS.—Section 316 of the Atomic Energy
6 Act of 1954 (42 U.S.C. 2286e) is amended by striking
7 “to the Speaker of” each place it appears.

8 (f) INFORMATION TO CONGRESS.—Section 320 of the
9 Atomic Energy Act of 1954 (42 U.S.C. 2286h–1) is
10 amended by striking “the Congress” and inserting “Com-
11 mittees on Armed Services and Appropriations of the Sen-
12 ate and the House of Representatives”.

13 (g) INSPECTOR GENERAL.—Chapter 21 of the Atom-
14 ic Energy Act of 1954 (42 U.S.C. 2286 et seq.) is amend-
15 ed by adding at the end the following new section:

16 **“SEC. 322. INSPECTOR GENERAL.**

17 “The Board shall enter into an agreement with an
18 agency of the Federal Government to procure the services
19 of the Inspector General of such agency for the Board.”.

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Defense Environmental Cleanup

Prioritization of environmental cleanup efforts

Other Defense Activities

*Review of the Supply Chain Security and Integrity of the Nuclear
Weapons Complex*

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

AIRCRAFT PROCUREMENT, AIR FORCE

Items of Special Interest

Long Range Stand-Off

The committee notes persistent confusion about whether the next generation bomber and next-generation cruise missile (otherwise known as the "Long Range Stand-Off weapon") will be nuclear capable in order to preserve the nuclear triad into the future. The committee addresses the next generation bomber in another section of this bill.

The committee directs the Secretary of Defense, in consultation with the Administrator of Nuclear Security, to provide a report to the congressional defense committees by February 4, 2013, concurrent with the delivery of the fiscal year 2014 budget submission, on the Department's plans, including costs and program impact, to ensure that the long-range strike bomber possesses a nuclear warhead equipped air-launched cruise missile capability, and that such system is available to be deployed, upon declaration of initial operating capability of the long-range strike bomber.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

Items of Special Interest

Patriot Product Improvement Program

The budget request contained \$110.0 million in PE 67865A for the Patriot Product Improvement Program.

The committee is concerned that the Army has not yet presented to Congress a prioritized plan to support the long term requirements of a modification program for a system that will be operational through at least 2035. Therefore, the committee directs the Secretary of the Army to submit a report not later than October 31, 2012, that provides a prioritized modernization plan for the Patriot system which addresses replacement of obsolete components and subsystems, development and insertion of technologies that can address evolving threats, including those technologies developed through the Medium Extended Altitude Defense System (MEADS), and introduction of life-cycle costs reduction changes.

The committee notes that a plan to harvest technology from MEADS was a specific requirement of the report mandated in section 235 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81), which has not yet been fulfilled. The committee believes such plan should be included in the fiscal year 14 budget request and beyond.

The committee recommends \$110.0 million, the amount requested, in PE 67865A for the Patriot Product Improvement Program.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

Items of Special Interest

Global Positioning System

Since its inception in the 1970s, the space-based architecture of the global positioning system (GPS) has remained generally the same. From the days of the early Block I satellites to the GPS III satellites under development today, the GPS signal from space has been provided by a dedicated constellation of 24 to 31 satellites in medium earth orbit. The committee believes that the evolution of satellite and user equipment technology combined with today's constrained budget environment make this the right time to look at alternative architectures for the future global positioning system.

The committee directs the Commander of the Space and Missile System Center, U.S. Air Force, to provide a report to the congressional defense committees by December 1, 2012, on lower-cost solutions for providing GPS capability following the procurement of the GPS III satellites. The report should identify the system capability, possible implementation approach(es), technical and programmatic risks, and the estimated costs of any solution(s) it recommends.

The committee also directs the Comptroller General of the United States to review the report provided by the Commander of the Space and Missile System Center to the congressional defense committees, and to provide its recommendations to the congressional defense committees within 90 days after the date the report is received.

Joint Space Operations Center Mission System

The committee believes that (1) improvements to the space situational awareness and space command and control capabilities of the United States are necessary, and (2) the Department should leverage existing investments in government and commercial capabilities to the fullest extent practical.

The committee is aware that the Joint Space Operations Center Mission System (JMS) is a program of critical importance that is being designed to deliver an integrated, net-centric space situational awareness and command and control capability. The committee is also aware that this capability requires timely migration from fragile legacy components.

The committee commends the Air Force for restructuring the JMS program to reduce cost and accelerate transition by enabling competition and leveraging government and commercial applications. Ultimately, the committee expects the Air Force to select and/or develop the solution that best serves the warfighters' needs. The committee encourages the Department to fulfill its requirements by using

existing or easily-modified Government and commercial applications, when possible, to achieve efficiency and cost effectiveness. The committee directs the Secretary of the Air Force, in coordination with the Office of Cost Assessment and Program Evaluation, to certify and report to the congressional defense committees within 270 days of the date of enactment of this act, that thorough market research and technical evaluation of relevant non-developmental items, that could provide a lower cost and earlier transition compared to a developmental solution, is completed during the acquisition process. The report should summarize the findings underpinning the certification. An interim report, in briefing format, should also be provided no later than March 1, 2013.

Operationally Responsive Space

The budget request contained \$10.0 million in PEs 63430F, 63423F, 63438F, 64441F, 64858F for five different programs to integrate the ORS concept into the entire space architecture. The budget request contained no funds in PE 64857F for the Operationally Responsive Space (ORS) program.

The committee is aware of the Department's plan to eliminate the Operationally Responsive Space program office and to transfer the remaining efforts to other space programs in order to better integrate the ORS concept into the entire space architecture. The committee is concerned with this plan and is not convinced that it will fully address joint military operational requirements for on-demand space support and reconstitution.

The John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) established the ORS office to respond to the needs of the joint force commander and to build an enabling infrastructure to support the rapid deployment of space capabilities. ORS capabilities have the potential to reduce the fragility of the space architecture through rapid reconstitution, provide augmentation or surge capabilities, and offer a pathway for demonstrating new technology or operational concepts.

Therefore, the committee directs the Department of Defense Executive Agent for Space to submit to the congressional defense committees a detailed strategic plan by November 30, 2012, that addresses how the Air Force will implement the mission of the ORS program as laid out in section 2273a of title 10, United States Code: (1) to contribute to the development of low-cost, rapid reaction payloads, busses, space lift, and launch control capabilities, in order to fulfill joint military operational requirements for on-demand space support and reconstitution; and (2) to coordinate and execute operationally responsive space efforts across the Department of Defense with respect to planning, acquisition, and operations. The plan should address the required funding for implementing this mission and how it will preserve this program's alternative approach to space acquisition.

Because the committee does not have a detailed understanding of the Department's plan for preserving the ORS mission without the ORS program office, the committee rejects the Department's legislative proposal to repeal the current

statute that requires the Secretary of Defense to establish an office to be known as the ORS program office.

The committee recommends a decrease of \$10 million, in PEs 63430F, 63423F, 63438F, 64441F, 64858F for the integration of the ORS concept into the entire space architecture. Instead, the committee recommends an increase of \$25.0 million in PE 64857F for the Department to continue the ORS program as it develops a strategic plan that addresses the mission of the ORS program office as laid out in section 2273a of title 10.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE

Items of Special Interest

Airborne Infrared and Advanced Remote Sensor Technology

The budget request contained \$58.7 million in PE 64886C for the Advanced Remote Sensor Technology (ARST).

The committee believes that early tracking and discrimination of ballistic missiles is critical in providing notification and essential cueing information to other Ballistic Missile Defense Systems (BMDS). The committee supported the Airborne Infrared system for this reason. The committee understands ARST is the Missile Defense Agency's (MDA) revised concept for this system. The committee believes that a forward-deployed ARST would enable existing BMDS radar assets to search a smaller volume with less radar energy required to detect threats. This translates to an increased raid threat handling capability.

While MDA's ultimate goal with the ARST program may be space-based sensors, the committee believes that the program could produce technologies and resulting capabilities with near-term applications beyond space. With continued development, these Airborne Infrared sensors could be used as a flexible, rapidly deployable missile defense system component to provide the earliest possible fine track and discrimination of boosting threat missiles. Moreover, advanced sensor technologies developed for missile defense also can provide benefits to other defense and intelligence missions, such as air-to-air engagements in difficult environments; airborne weapons layer surveillance, acquisition, cueing, and fire control; maritime domain awareness; and ballistic missile defense technical collection.

To prevent wasteful duplication of effort, the committee believes MDA should coordinate with the Services and the Intelligence Community to ensure that all potential applications for ARST investments are considered fully and adequately. In particular, the MDA should ensure that advanced sensor development takes into consideration any near-term, non-space missile defense capabilities. Exploiting these technologies in multiple mission areas may also enable future cost sharing and technology transfer opportunities. The committee directs the Director, Missile Defense Agency to provide a report to the congressional defense committees within 180 days after the date of the enactment of this Act on

the results of coordination with the military services and the intelligence community.

The committee recommends \$58.7 million, the amount of the request, in PE 64886C for ARST.

AN/TPY-2 radar

The committee notes the exceptional capability of the TPY-2 radar, and believes such capability should be fully explored by the Defense Department. The committee is aware that there have been recent reports that provide recommendations for how to further the capability of this system.

The committee directs the Under Secretary of Acquisition, Technology, and Logistics to provide a report to the congressional defense committees by November 30, 2012, on the stacked TPY-2 array concept described in the National Academies "Assessment of Concepts and Systems for U.S. Boost-Phase Missile Defense in Comparison to Other Alternatives", conducted pursuant to section 232 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417).

Concerns related to high concurrency and technical risk associated with the EPAA

The committee is aware that each year, the Government Accountability Office (GAO) prepares a report for the congressional defense committees on the missile defense programs of the United States pursuant to a mandate in the national defense authorization acts since 2002.

The committee was pleased to see in the report prepared for fiscal year 2011 that the GAO found that MDA has achieved successes in areas like the delivery and performance of its targets, which has been a concern in the past.

The committee is, however, concerned by GAO's findings in its draft fiscal year 2012 report that "during 2011, the Ground-Based Midcourse Defense (GMD) system, the Aegis Standard Missile 3 Block IB, and the Terminal High Altitude Area Defense experienced significant ill effects from concurrency."

For nearly every missile defense program the GAO found high levels of concurrency, which is defined as "the overlap between technology development or between product development and production." GAO found that the discovery of a design problem in the ground-based midcourse defense (GMD) interceptors, mod CE2, while production was underway increased costs, may require retrofit of fielded equipment, and delayed delivery of those interceptors. As a result, flight and other test-related costs to confirm capability have increased from \$236 million to about \$1 billion; the committee notes these costs involve four flight tests of the CE2 equipped interceptor.

GAO also noted concurrency problems with regard to the many systems and programs that relate to the European Phased Adaptive Approach (EPAA) to deploy missile defense in Europe: specifically the Aegis Ashore system, and potential

implications for the Romania Aegis Ashore deployment to Romanian civil systems; the Precision Tracking Space System; and, the SM-3 IB, IIA, and IIB missiles.

The committee notes that concurrency has affected many areas of the missile defense system and no system appears to have been spared that concurrency, including the GMD system. Regarding GMD, the committee is aware of the compressed timelines to deploy missile defenses when the United States withdrew from the Anti-ballistic Missile Treaty in 2002. In that circumstance, the United States had no homeland missile defense and raced to deploy it to defend the homeland.

In the case of other systems, such as the EPAA's SM-3 IIB, the committee notes that the GAO has stated that "the need to meet the presidential directive to field the SM-3 Block IIB by the 2020 timeframe for European PAA Phase IV is a key driver for the high levels of concurrency." The committee encourages MDA to learn from these past mistakes.

The committee directs the Missile Defense Executive Board (MDEB) to report to the congressional defense committees not later than September 15, 2012, on its plans to address the risks noted by the GAO in its April 2012 draft report; this report should include an evaluation of mitigations and their costs that may be necessary if the risks highlighted by GAO are not resolved on a schedule consistent with the timelines articulated in the Ballistic Missile Defense Review of 2010 concerning the EPAA's four-phased deployment and consistent with the plan to update and field additional GMD systems.

The committee further notes that the OSD Cost Assessment and Program Evaluation office is currently working to develop a comprehensive cost of the EPAA. The Committee expects the final cost projection to be provided not later than the MDEB report required by this section.

Conventional Prompt Global Strike

The budget request contained \$110.4 million in PE 64165D8Z for conventional prompt global strike (CPGS) capability development.

The budget request would fund the design, development, and experimentation of boosters, payload delivery vehicles, non-nuclear warheads, guidance systems, and mission planning and enabling capabilities with the goal of competitive acquisition beginning in fiscal year 2013 or fiscal year 2014. The committee understands that timing will be driven by the outcome of flight events and the budget.

The committee notes that while the first two HTV-2 tests were unsuccessful (though it provided meaningful data for review and concept development), the Army's Advanced Hypersonic Weapon (AHW) concept, developed in concert with the Sandia National Laboratory, was a success. The committee encourages the Department to continue cost-effective technology development and demonstration by leveraging the successful flight test of the AHW FT-1A glide body and by

utilizing this ongoing program that can support prompt global strike acquisition programs across the Department.

The committee encourages a broader examination of the trade space of CPGS capabilities and concepts to meet warfighter requirements. The committee is mindful of the letter received by the Subcommittee on Strategic Forces on May 20, 2011, from the Under Secretary of Acquisition, Technology, and Logistics that stated: "The Department remains committed to using industry competition for driving productivity and managing program risks and costs. It is my intent to promote competition in all areas of CPGS acquisition at the system, subsystem, and component levels." The committee understands that this continues to be the Department's approach and commends the Department for it.

The committee also encourages the Department to draw on the lessons of the 2008 National Academy of Sciences review and final report "U.S. Conventional Prompt Global Strike: Issues for 2008 and Beyond," completed pursuant to the conference report (H. Rept. 109-707) accompanying the Department of Defense Appropriations Act, 2007 in which the conferees recommended a series of verification and transparency measures, in the context of their recommendation for development of CPGS, that could address concerns related to verification, transparency, and nuclear versus non-nuclear discrimination.

Therefore, the committee directs that the Secretary of Defense to provide a report to the congressional defense committees by December 1, 2012, detailing how the Department plans to use competition and integrate verification and transparency measures as it develops and deploys CPGS capabilities.

The committee recommends \$110.4 million, the amount of the request, in PE 64165D8Z for conventional prompt global strike (CPGS) capability development.

Directed Energy Missile Defense Program

The budget request contained \$44.6 million in PE 63901C for Directed Energy Research.

The committee notes that this year's budget request terminates the Airborne Laser Test Bed program. This program demonstrated the world's first megawatt class airborne laser, tracked 11 boosting missiles, and destroyed a foreign material asset ballistic missile. The committee notes, however, that the Government Accountability Office in 2011 had expressed concern about continuing technical issues affecting the test bed's experiments and about flight test failures.

The committee directs the Director, Missile Defense Agency to provide a report to the congressional defense committee by July 31, 2012, on the costs involved with returning the Airborne Laser aircraft to an operational readiness status to continue technology development and testing, and to be ready to deploy in an operational contingency, if needed, to respond to rapidly developing threats from the Democratic People's Republic of Korea.

The committee recommends \$74.6 million, an increase of \$30.0 million, in PE 63901C to enable MDA to preserve the skilled workforce that was involved in

the Airborne Laser Test Bed program and to accelerate experimentation with next generation directed energy system development, including the planned testing of the Phantom Eye system. The committee believes these funds can also support and accelerate the directed energy research applicable to missile defense that is occurring at the nuclear weapons laboratories.

Medium Extended Altitude Defense System

The budget request contained \$400.9 million in PE 64869A for the Medium Extended Altitude Defense System (MEADS).

The committee is concerned that it does not have a complete picture of all MEADS-related expenses. The committee is aware that the MEADS agreement committed the United States to a total cost of \$2.4 billion, but budget documents suggest the United States may have expended, or be planning to expend, in excess of \$3.0 billion. Therefore, the committee directs the Secretary of Defense to provide a report to the congressional defense committees by May 31, 2012, on all MEADS and MEADS-related expenses incurred, or planned, by the United States.

The committee recommends no funds, a decrease of \$400.9 million, in PE 64869A for MEADS. Elsewhere in this title, the committee includes a provision in which the committee details its concerns with MEADS and its rationale for authorizing no funds for the program in fiscal year 2013.

Plan for testing of the missile defense systems against accidental or unauthorized launches originating from the Russian Federation or the People's Republic of China

The committee is aware that it is the current policy of the United States, as enacted in the National Missile Defense Act of 1999 (Public Law 106-38), that the United States "deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack whether accidental, unauthorized, or deliberate."

The committee applauds the Commander, U.S. Northern Command for the diligence with which his command exercises against the many ballistic missile threats to the United States. The committee is, however, concerned that the threat of accidental or unauthorized launches has not received adequate attention.

The committee therefore directs the Commander, U.S. Northern Command to prepare and submit a plan to the congressional defense committees within 120 days after the date of the enactment of this Act for testing the national missile defense system against the unauthorized or accidental launch of a ballistic missile against the United States by states other than rogue regimes, specifically, the Islamic Republic of Iran or People's Democratic Republic of Korea, including an accidental or unauthorized launch of a missile by the Russian Federation or the People's Republic of China. The committee further directs the Commander to brief the congressional defense committees on the results of the plan.

Report on U.S. European Phased Adaptive Approach spending and U.S. export controls

The committee is concerned that U.S. funds may have been expended in a contract with a firm currently under investigation for violation of the U.S. International Trafficking in Arms Regulations. Therefore, the Secretary of Defense is directed to report to the congressional defense committees by August 1, 2012, on whether any U.S. Department of Defense funds have been used, directly or indirectly, to obtain missile defense command and control systems from a contractor that is under investigation, per the most recent Blue Lantern report, for violation of U.S. International Trafficking in Arms Regulations. If U.S. funds were expended in a contract involving an entity currently under investigation for violating U.S. export control laws, the Secretary is directed to include in the report an explanation of why that company was allowed to receive such U.S. funds and when the U.S. funds were provided to the contractor that is under investigation.

Report on fragility in the missile defense industrial base

The committee is concerned about the impact of budget cuts on the missile defense industrial base, as it is concerned about the overall defense industrial base. In testimony before the Subcommittee on Strategic Forces on the fiscal year 2013 budget request for missile defense, the Director, Missile Defense Agency (MDA) stated: "If we have sequestration and the dramatic reduction in our programs, it will be most--hardest-felt in the supplier base. And it's not only the availability of the supplies, as we were discussing before, it's the manufacturing processes. And, a lot of these components that we use, and we use over 2,000, for example, on a ground-based interceptor, those components themselves are built in a certain way that give it its reliability. And, the loss of the workforce in many of these cases I would say would be close to non-recoverable. Or, if it is recoverable, it's going to be a very painful process."

The committee is also aware that there are certain components with only one or two suppliers remaining in that area of design and production. This is especially true for the producers of the Standard Missile 3 interceptor's Divert and Attitude Control System which guides the kill vehicle during the final phase of its intercept operations. The committee is deeply concerned about the absence of competition in the design and production of key missile defense technologies.

The committee therefore directs the Director, Missile Defense Agency to provide a report to the House Committee on Armed Services within 180 days that details the key components in major MDA missile defense systems and the extent to which there is a risk of relying on only a single supplier for those components. The report should include any specific efforts MDA has undertaken in the past 2 years to ensure competition in the industry supplier base for those components and any efforts the MDA plans to inform a strategy to deal with the risks of reliance on a single supplier for critical missile defense technologies in the years ahead. In

addition, the committee urges the Missile Defense Agency to provide as part of the fiscal year 2014 budget request a plan on how it intends to implement the strategy.

Sea-based X-band radar

The budget request contained \$9.7 million in PE 63907C for the sea-based X-band (SBX) radar.

However, the committee is concerned that this request is not sufficient to maintain the deployment of the SBX to add sensor coverage to the defense of the United States for an extended period of time. For example, the committee is aware that the SBX radar has recently been deployed to support U.S. missile defense against People's Democratic Republic of Korea's pledged ballistic missile test, yet there is no funding source to support such a deployment. The committee is aware that the Missile Defense Agency is planning to pay for these and other SBX expenses by taking fiscal year 2012 appropriated funds and the request for fiscal year 2013.

The committee directs the Director, Missile Defense Agency to provide a report to the House Committee on Armed Services by June 15, 2012, on the costs of the deployment of the SBX radar to support U.S. operations vis-a-vis North Korea's April 2012 ballistic missile launch, and to provide an annual budget estimate for maintaining the SBX radar in a status such that it can be deployed in less than 14 days notice and for a period of at least 60 days per year. Elsewhere in this Act, the committee includes a provision that would require the Director, Missile Defense Agency to ensure a deployment capability for the SBX.

The committee recommends \$9.7 million, the full amount of requested, in PE 63907C for the SBX radar.

U.S. Missile Defense data sharing with Israel

The committee supports the close ties between the missile defense programs of the State of Israel and the United States. The committee strongly believes such cooperation should continue. This cooperation should continue to include the sharing of missile defense data as is appropriate, to further U.S. national security goals, such as exists with the U.S. AN/TPY-2 radar currently deployed in Israel. Such data sharing, when appropriate, should also include data derived from the U.S. European Phased Adaptive Approach to missile defense and the North American Treaty Organization theater missile defense system, of which the EPAA is a U.S. contribution.

The committee is therefore concerned that senior NATO leadership had suggested data will not be shared with Israel, a key U.S. ally. The committee directs the Secretary to provide verification to the congressional defense committees within 90 days after the date of the enactment of this Act that there are no international barriers to sharing with Israel any missile defense data derived from U.S. systems when the United States determines that the sharing of such data would further U.S. national security goals.

U.S. Northern Command report on plan to enhance Ground-based Midcourse Defense reliability and discrimination and change shot doctrine

The committee has received testimony by the Director, Missile Defense Agency (MDA) and a classified briefing by the Institute for Defense Analyses on the Ground-based Midcourse Defense (GMD) system shot doctrine. The committee understands that MDA and the Department of Defense are planning for significant changes to the shot doctrine of the GMD system.

The committee is aware that the Commander, U.S. Northern Command is responsible for the GMD shot doctrine. The committee directs that the Commander, U.S. Northern Command to provide a report to the congressional defense committees by November 1, 2012, on the MDA shot doctrine strategy for the GMD, including the plan submitted in MDA's budget documents for fiscal year 2013 that details the Commander's views on the strategy. The report should also include the metrics concerning GMD reliability and discrimination that will be used when deciding whether and how to revise the shot doctrine for the GMD system.

TITLE III—OPERATION AND MAINTENANCE

ITEMS OF SPECIAL INTEREST

READINESS ISSUES

Space Training

The committee notes the progress in the implementation of the Ballistic Missile Defense Individual Training and Education Needs Assessment recommendations. The committee continues to support improving the integration of ballistic missile defense training across and between combatant commands and military services, and encourages the identification of capabilities and funding necessary to effectively and adequately integrate this training.

The committee recognizes that a similar study for space training could improve integration, find efficiencies, and identify opportunities to better meet Joint Requirements across the services and combatant commands. The committee therefore directs the Comptroller General of the United States to provide a report to the congressional defense committees by March 1, 2013, that contains the following:

- (1) A description of existing space training and education;
- (2) An assessment of the synchronization and standardization across existing training programs, including best practices; and
- (3) Recommendations that are warranted for training improvements, including recommended roles and responsibilities, organizational models, resources, and facilities required for joint space training.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

ITEMS OF SPECIAL INTEREST

Study on National Air and Space Intelligence Center and Marine Corps Intelligence Activity Management Structure

The committee notes the management structure of the National Air and Space Intelligence Center (NASIC) and the Marine Corps Intelligence Activity (MCIA) does not mirror the management structure of the other military intelligence centers. The demand for intelligence increased exponentially over the past decade and the intelligence centers require a stable, strong command structure to effectively meet the information demand. The lack of a civilian senior executive service (SES) executive director could impede managerial effectiveness and limit interaction with colleagues from other military and civilian organizations.

The committee directs the Secretary of the Air Force, in coordination with the Secretary of the Navy, to examine the command structure of NASIC and MCIA, respectively, with regard to establishing a civilian SES executive director. The committee directs the Secretary of the Air Force and Secretary of the Navy to report the findings of the study along with any recommendations the Secretaries may have relating to modifying the command structure of the NASIC and MCIA to the congressional defense committees by February 15, 2013.

TITLE X—GENERAL PROVISIONS

ITEMS OF SPECIAL INTEREST

OTHER MATTERS

B61 Gravity Bomb Tail Kit

The committee wants to ensure that the Air Force explore all appropriate options for its new tailkit that can make it as effective as possible to satisfy military requirements. The committee directs the Secretary of the Air Force, in conjunction with the Commander of U.S. STRATCOM and the Chief of Staff of the Air Force, to report to the congressional defense committees on the options under consideration for the tail kit of the B61 gravity bomb, including any decisions that reduce or limit the gravity bomb's accuracy. The section would require that the report be provided to the congressional defense committees in an unclassified report, with a classified annex if necessary. The report shall be provided not later than August 15, 2012.

Processing, Exploitation, and Dissemination of Intelligence, Surveillance, and Reconnaissance

The committee notes the importance of intelligence, surveillance, and reconnaissance (ISR) capabilities for the warfighter. New technology combined with a wartime environment has led to an exponential growth in ISR collection capability over the past decade. The committee notes previous Government Accountability Office reports that found the Department's capacity for processing, exploiting, and dissemination is limited and has not kept pace with the increase in collection platforms and combat air patrols. The committee believes the solution will be a holistic approach that includes personnel as well as new tools and technology. The Department has been trying to address this, but continues to face technical, planning, manpower, and training challenges. The committee notes that these challenges may be exacerbated as the Department begins to shift operational and ISR focus to other regions and modes of operation that will differ from recent and ongoing operations, in addition to the future integration of wide area airborne surveillance technologies.

Therefore, the committee directs the Comptroller General of the United States to provide a report to the congressional defense committees and the Senate Select Committees on Intelligence and the House Permanent Select Committee on Intelligence by March 1, 2013, addressing the extent that the Department:

- (1) Has developed a structure to process, manage, store, fuse, tag, search and analyze the ISR data that is currently collected and is scalable to future data collection;
- (2) Has sufficient and secure communications and information architectures to manage ISR data;
- (3) Has a plan to develop capabilities, or use identified established training centers, to train a workforce adequate to meet current and future ISR needs; and,
- (4) Is making use, or investing in, technology to automate and efficiently process, exploit, and disseminate ISR data.

Report by Commander US Strategic Command on Locating and Targeting Mobile Ballistic Missiles

The committee is aware that nations are increasingly attempting to deploy mobile ballistic missiles believing that they will be immune from, or significantly more difficult to defend against, U.S. military forces, including missile defense systems. The committee believes that the United States may need to develop and deploy capability to locate and target mobile ballistic missiles and the committee is interested in how such capability, if deployed, would impact requirements.

Therefore, the Commander, U.S. Strategic Command is directed to provide an unclassified report in form to the congressional defense committees by November 15, 2012, with a classified annex, if necessary, on its ability to locate and target, with U.S. military forces, mobile ballistic missiles.

Report on Command and Control Arrangements of the European Phased Adaptive Approach and NATO Ballistic Missile Defense Systems

The committee is aware that the European Phased Adaptive Approach (EPAA), which is a U.S. contribution to the North Atlantic Treaty Organization (NATO), will at times be under the command of the Commander, U.S. European Command (EUCOM), and at times be under the command of NATO. The committee is concerned that it is not yet clear as to how this command structure will work in practice. The concern is amplified by the committee's understanding that the NATO system, of which the EPAA is an element, will be declared to have achieved interim operating capability at the May 2012 Chicago Summit.

Therefore, the committee directs the Secretary of Defense to provide a briefing to the congressional defense committees by July 15, 2012, specifying the command and control arrangements for U.S. missile defense systems deployed in Europe when under U.S. command and under NATO command. The plan should focus on who will maintain fire control authority, when such authority will change hands between EUCOM and NATO, and what the concept of operations will be for the defense of Europe, including priority of defense of U.S. deployed forces and NATO territory using available missile defense interceptor inventory.

Report on the Assessed Efficacy of the Location of X-band Radar on the East Coast of the United States

The committee is aware that the Missile Defense Agency continues to maintain a large X-band radar located on Kwajalein Atoll in the Republic of the Marshall Islands, a radar that was intended to be deployed in the Czech Republic prior to the Administration's decision to cancel the European Third Site deployment. The committee believes this radar, formerly known as the European Midcourse Radar, could be usefully employed by the United States for its missile defense by contributing to the acquisition, tracking, and discrimination of ballistic missile threats launched from the Middle East.

Therefore, the committee directs the Director, Missile Defense Agency to conduct a study the costs and capabilities for homeland missile defense involved with basing this radar at an advantageous site along the East Coast of the United States, and to provide a briefing to the House Armed Services Committee by September 30, 2012, on the results of the study.

Report Regarding Impacts of W76 Nuclear Warhead Life Extension Program Delay

On February 16, 2012, the Chief of Naval Operations, testified to the committee that the Navy is concerned with the National Nuclear Security Administration's (NNSA) plans to slow the production schedule of the W76 nuclear warhead life extension program (LEP), stating that "we are concerned beyond the [fiscal year 2013] submission by the NNSA with regard to their warhead upgrade...when we look at [fiscal year 2014] and up, we are concerned." The committee shares the Navy's concern about NNSA's production slow-down for the W76 LEP, particularly if the slowed schedule risks not meeting the operational or hedge requirements of the Navy or U.S. Strategic Command.

Therefore, the committee directs the Chief of Naval Operations, in coordination with the Commander, U.S. Strategic Command, the Director of the Navy's Strategic Systems Programs, and the Administrator for Nuclear Security, to submit a report to the congressional defense committees by August 15, 2012, on if and how the NNSA's proposed schedule for the W76 LEP meets the operational and hedge stockpile requirements of the Navy and U.S. Strategic Command throughout the full life of such LEP. If the plan does not meet such requirements, the report should include a detailed description of why it does not. Finally, the report should include a description of the impacts of the slow-down on the Navy and U.S. Strategic Command.

TEAM B Report on China's Nuclear Weapons Program

In 2011, the Subcommittee on Strategic Forces held a hearing concerning the nuclear weapons modernization programs of the Russian Federation and the People's Republic of China. The committee is concerned that there may be gaps in U.S. understanding of China's nuclear weapons program and its role in China's national security, modernization plans, capabilities, and other key details.

Therefore, the committee directs the Secretary of Defense to direct an Federally Funded Research and Development Center to convene a panel of nuclear weapons and military experts, consisting of persons with significant Government or nuclear weapons laboratory experience and subject matter expertise, including past and current access to the intelligence community and Department of Energy classified information, to provide a report to the congressional defense committees by April 15, 2013, that examines the Chinese nuclear weapons program. The report should include: an assessment of China's nuclear deterrence strategy, a historical perspective and the assessed geopolitical drivers of its strategy; a detailed description of China's nuclear arsenal, its capabilities, and associated doctrines (including targeting doctrines); projections of possible future Chinese nuclear arsenals, their capabilities, and associated doctrines; a description of command and control functions and gaps; an assessment of China's fissile material stockpile, and civil and military production capabilities and capacities; an assessment of China's production capacities for nuclear weapons and nuclear weapon delivery vehicles; and a discussion of any significant uncertainties surrounding China's nuclear weapons program. The report should identify knowledge gaps, regarding China's nuclear weapons program, and discuss the implications of any such gaps for the security of the United States and its allies. Lastly, the report should include any recommendations for how to improve U.S. understanding of the Chinese nuclear weapons program.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

ITEMS OF SPECIAL INTEREST

NATIONAL NUCLEAR SECURITY ADMINISTRATION

Naval Reactors

Report by the Director of Naval Reactors

United States civil nuclear cooperation carries the intrinsic risk that some technology transferred for civilian purposes may directly or indirectly provide benefits to foreign military nuclear programs. The committee believes such risk must be kept to the minimum possible when civilian nuclear cooperation occurs.

The committee directs the Director, Naval Reactors, in coordination with the Secretary of Energy, the Secretary of State and the Director of National Intelligence, to provide a report to the congressional defense committees by November 15, 2012, detailing any nuclear cooperation under a so-called "123" nuclear cooperation agreement in the preceding 5 years that directly or indirectly advantaged, or has the potential to advantage, the military nuclear program, including nuclear naval propulsion or weapons programs, of another nation. The Director's report should be submitted in classified form.

Report on potential use of low-enriched uranium for naval reactors

The committee is aware of a study conducted by the Director, Naval Reactors in 1995 to assess the technical, environmental, economic, and proliferation implications of using low-enriched uranium (LEU) in place of highly-enriched uranium (HEU) in Naval nuclear propulsion systems. The committee notes that the report concluded that "the use of LEU in U.S. Naval reactor plants is technically feasible, but uneconomic and impractical."

The committee directs the Director, Naval Reactors to submit a report to the congressional defense committees by March 1, 2013, that describes any updates to the findings and conclusions from the 1995 report, including any changes in the estimated costs for fabricating HEU and LEU life-of-ship cores, the ability to refuel nuclear-propelled submarines and ships without extending the duration or frequency of major overhauls, and the overall health of the technology base that may be required to utilize LEU in Naval nuclear propulsion systems.

Office of the Administrator

Report and implementation actions for findings and recommendations related to governance, management, and oversight of the nuclear security enterprise

Elsewhere in this title, the committee describes the well-documented problems related to governance, management, and oversight of the nuclear security enterprise. Based upon these concerns, the committee directs the Administrator for Nuclear Security, in coordination with the Secretary of Energy, to submit a report to the congressional defense committees by December 1, 2012, on the findings and recommendations contained in: (1) the National Academies of Science report, "Managing for High-Quality Science and Engineering at the NNSA National Security Laboratories;" (2) the National Laboratory Directors' Council's (NLDC) May 31, 2011, white paper to the Secretary of Energy, "NLDC Prioritization of Burdensome Policies and Practices;" and (3) the Department of Energy's Office of the Inspector General (IG) special report, "Management Challenges at the Department of Energy," for the IG's findings that pertain to the National Nuclear Security Administration. The report should include, for each individual finding and recommendation contained in the documents: the views of the Administrator and the Secretary on the finding or recommendation; a determination by the Administrator and the Secretary on whether action will be taken to address the finding and recommendation; if a determination is made to take action on a finding or recommendation, a description of implementation actions to be taken to address the finding or recommendation; and, if a determination is made to take no action on a finding or recommendation, an explanation of why no action will be taken. The report should also include a detailed list of actions to be taken, the responsible parties for carrying out the actions, and the timeline for when these actions will be accomplished. The report should also contain a list of proposed actions Congress could take to address the findings.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

Defense Environmental Cleanup

Prioritization of environmental cleanup efforts

In the November 2011, special report, "Management Challenges at the Department of Energy," the Inspector General (IG) of the Department of Energy wrote that the Department's environmental remediation program costs "and related requirements are the result of individual, site-specific negotiations between the Department and Federal and state regulators." The Inspector General noted that modifying the agreements resulting from these negotiations "would be a very costly and time-consuming process and would, understandably, be extremely unpopular with a variety of constituencies," but also added that "the current strategy may not be sustainable." The Inspector General suggests that the Department of Energy "should consider revising its current remediation strategy and instead address environmental concerns on a national, complex-wide risk basis," and, "looking at the program holistically, fund only high risk activities that threaten health and safety."

The committee also recognizes the difficulty and challenges posed in fully transitioning to such a paradigm, but believes further consideration of the idea may

be warranted. Therefore, the committee directs the Assistant Secretary for Environmental Management to provide a briefing to the House Committee on Armed Services by October 31, 2012, on prioritization of environmental cleanup efforts at the Department of Energy. The briefing should include a description of how the Department currently prioritizes cleanup efforts and the costs, benefits, and challenges of transitioning to the complex-wide risk basis recommended by the Inspector General. The committee expects the Assistant Secretary to consult with the Inspector General to fully understand and evaluate the IG's proposal.

Other Defense Activities

Review of the Supply Chain Security and Integrity of the Nuclear Weapons Complex

The committee is concerned by the findings of the Government Accountability Office (GAO) in its report, "IT Supply Chain: National Security-Related Agencies Need to Better Address Risks" (GAO-12-361). The report stated that, "Although four national security-related departments - the Departments of Energy, Homeland Security, Justice, and Defense - have acknowledged these threats, two of the departments - Energy and Homeland Security - have not yet defined supply chain protection measures for department information systems and are not in a position to have implementing procedures or monitoring capabilities to verify compliance with and effectiveness of any such measures."

The committee is also aware that its "2011 Report to Congress," the U.S.-China Economic and Security Review Commission detailed specific supply chain threats originating from firms linked to the Government of the People's Republic of China. These firms, specifically Huawei and ZTE Corporation, have been, and are likely to continue to provide billions of dollars in Chinese Government support. The report also stated that these firms have been blocked from certain deals with U.S. firms because of national security concerns.

The committee is concerned by these developments as well and the information technology (IT) chain problems reported by GAO. Therefore, the committee directs the Secretary of Energy, in consultation with the National Counter Intelligence Executive, to provide a report to the congressional defense committees by August 31, 2012, on the supply chain risks to the Department of Energy. The report should address the following: (1) IT supply chain vulnerabilities of the Department of Energy, with special attention paid to the laboratories and plants of the national nuclear weapons enterprise; (2) Evaluate whether the Department of Energy, or any its major contractors, have a supply chain that includes technology produced by Huawei or ZTE Corporation; and (3) A plan for implementation of the recommendations of the GAO report referenced above.

Finally, the committee is aware that section 806 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383) provided the Department of Defense the authority to protect its supply chain. The committee is also aware that section 309 of the Intelligence Authorization Act for Fiscal Year 2012 (Public Law 112-87) provided the intelligence community similar authority.

The committee further directs the Secretary of Energy to include in the report an assessment of any concerns may have about providing similar authority in order to protect the Department of Energy's IT supply chain.