



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

SEP 11 2020

The Honorable James Inhofe  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

As the Fiscal Year (FY) 2021 congressional bills progress through conference, there are many topics of concern on which I will engage the congressional defense committees in the coming weeks. One of these issues is the nuclear modernization and sustainment programs of the Department of Defense (DoD) and the Department of Energy's (DOE) National Nuclear Security Administration (NNSA). In light of your committee's NNSA Budget and Nuclear Modernization Posture Hearing on September 17, 2020, I write this letter to convey my concerns with recent legislative action on these matters. Our Nation's nuclear capabilities are essential to the deterrence of both nuclear and non-nuclear aggression. The deterrence effects they provide are unique, are vital to preventing potential adversary nuclear attacks, and will be essential for the foreseeable future. Modernizing and sustaining the Nation's nuclear deterrent are, therefore, my top priority.

Responsibility for modernizing America's nuclear deterrent is shared between DoD and DOE. After reviewing the recently House-passed FY 2021 Appropriations bill (H.R. 7617) and National Defense Authorization bill (H.R. 6395), I would like to share with you my strong concerns with several interrelated aspects of these bills. If left unaddressed, provisions affecting DoD, DOE, and NNSA put modernization of the United States' nuclear deterrent at unacceptable risk.

Most notably, the Energy and Water Development provisions in H.R. 7617 would do grave damage to the nuclear deterrent mission by underfunding NNSA's nuclear weapons activities by \$2 billion in FY 2021. A cut of this magnitude would prevent NNSA from delivering on its nuclear modernization commitments and jeopardize DoD and DOE/NNSA's shared efforts to deliver the capabilities needed to maintain our Nation's nuclear deterrent in the most cost-effective manner possible. I strongly encourage Congress to provide NNSA the full amount contained in the President's Budget Request for Weapons Activities.

Provisions in H.R. 7617 curtailing the ability of DoD and DOE/NNSA to coordinate and align our nuclear weapons programs and their funding through the Nuclear Weapons Council (NWC) are also of great concern. Since its inception, the NWC has provided a crucial mechanism for DoD and DOE/NNSA to coordinate and align our efforts to maintain the Nation's nuclear deterrent. Section 307 would require the Secretary of Energy to report to Congress, 15 business days prior to any decision being made, on nearly all NWC actions and decisions. Placing Congress within the Executive branch decision-making cycle in such a manner would raise significant deliberative process and separation of powers concerns. Section 309 would prevent the NWC from carrying out its statutory responsibilities under 10 U.S.C. § 179 to coordinate between DoD and DOE/NNSA on priorities, programs, and budgets, and may prevent DOE/NNSA from participating in NWC activities in any meaningful way. Section 8138, in the Defense portion of the bill, would similarly prevent DoD from carrying out the critical statutory responsibilities of the NWC. Collectively, these sections would end the statutorily mandated NWC as an effective and useful governing body and gravely endanger the ability of DoD and DOE/NNSA to coordinate on our shared responsibilities for nuclear deterrence. I encourage you to work with your congressional counterparts to eliminate all three sections from the final appropriations bills.

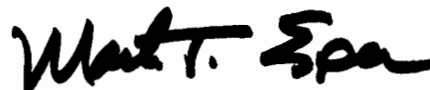
Provisions in the House-passed National Defense Authorization bill (H.R. 6395) are also problematic. Section 1644 would create a Cabinet Secretary co-chair structure for the NWC, which would reduce the frequency of meetings just as our nuclear modernization programs ramp up in scale and effort. Under the current structure, the NWC has been meeting on a regular, monthly basis for several years, and the Under Secretary of Defense for Acquisition and Sustainment—together with the Under Secretary of Energy for Nuclear Security—are the appropriate officials to drive NWC activities. I assure you that the NWC can, and does, raise appropriate issues to my attention when needed, and I believe the NWC should continue to be structured in this manner.

Similarly, section 3111 of H.R. 6395 would impose overly prescriptive and duplicative requirements on DOE/NNSA and DoD's joint nuclear weapons acquisition processes, adding delays and costs with little benefit. There are already well-established processes for nuclear weapons acquisition. The existing Phase X processes and procedures include control points, approvals, independent cost reviews, peer reviews, and reporting requirements. Section 3115 adds unnecessary requirements for an independent cost estimate that assigns a "confidence level" to plutonium pit production capabilities. DOE Order 413.3B processes for managing capital asset acquisition already include the development of independent cost estimates at each critical decision milestone, including confidence levels based on project scale, complexity, and scope that are reasonable at the expected milestone, as well as independent cost estimates when appropriate. Finally, section 3121, preventing nuclear weapons tests that produce "any yield," risks inadvertently preventing a wide array of necessary testing procedures. I urge you to work with fellow Members of Congress to remove all of these provisions from the final defense authorization bill.

The Defense portion of H.R. 7617 also contains several reductions to modernized nuclear delivery platforms and contains reductions that could prevent fielding of these systems on schedule. In particular, I encourage you to provide the full amount contained in the President's Budget Request for the Ground-Based Strategic Deterrent (GBSD) and Long-Range Standoff (LRSO) Weapon programs. The reductions of \$60 million to GBSD and \$170 million to LRSO are not reflective of the urgency of nuclear modernization and would likely result in a delay of one to two years in Initial Operational Capability. This would put the viability of the nuclear Triad in jeopardy around 2030. Any delay in funding for these replacement systems would adversely impact the nuclear Triad and the essential deterrence mission.

I urge the committees to reconsider these matters, and I will write you and your colleagues on other issues contained in these bills as the legislation continues through the process. Thank you for your continued support to the Department of Defense, our partners in the Department of Energy, our Nation's nuclear deterrent, and the men and women in both Departments who form the backbone of that deterrent.

Sincerely,

Handwritten signature of Mark T. Esper in black ink.

cc:  
The Honorable Jack Reed  
Ranking Member



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

SEP 11 2020

The Honorable Adam Smith  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

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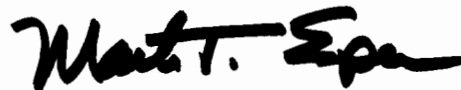
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Sincerely,

A handwritten signature in black ink that reads "Mark T. Esper". The signature is written in a cursive, slightly slanted style.

cc:  
The Honorable William M. "Mac" Thornberry  
Ranking Member