POLICY ESSAY

HOW CONGRESS CAN STOP WORRYING AND LEARN TO GOVERN THE BOMB: A NEW ERA OF CONGRESSIONAL RESPONSIBILITIES IN NUCLEAR WEAPONS POLICY

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ABSTRACT

Since the development of the first nuclear weapons, policymakers have been forced to grapple with the implications of their extraordinary destructive potential. Congress, with its constitutional remit on matters of war and peace, has responsibility to shape the development of policies which govern nuclear weapons, including in their acquisition and use. In the decades following the invention of nuclear weapons, Congress has at times taken active roles in oversight of nuclear weapons policy and programs in accordance with its constitutional prerogatives. However, in part due to Congress's structure, this oversight has recently tended towards dictating programmatic minutiae rather than addressing the strategic questions about the role that nuclear weapons should play in the national security of the United States. On such an important political issue, Congress must engage in fulsome debate and take an active role in shaping policy regarding the role of nuclear weapons in our security, society, and international relations.

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I. Introduction

A. The Beginning of the Modern Era

Eighty years ago, nuclear weapons were used in war for the first and only time.[1] The horrific death toll made clear that nuclear weapons enabled destruction at a scale that was previously unthinkable.[2] Once such destructive capabilities were available, governments faced new questions about the future of these weapons.

Nuclear weapons have unique attributes, particularly in the scale of their destructiveness, which left policymakers and military planners struggling to understand what strategic role these weapons would play in global defense.[3] In democracies, where civil-military norms have often emphasized a split between political leaders who set war objectives and military leaders who manage the conduct of war, nuclear weapons posed a particular challenge by erasing the line between political and military decisions.[4]

Today, policymakers still grapple with these questions. I will argue that one conclusion has become increasingly clear through these debates: nuclear weapons are not merely military weapons. Their capacity to destroy makes them, by some assessments, "useless" as military implements

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[1] *See* Daryl G. Kimball, *The Hiroshima and Nagasaki Bombings and the Nuclear Danger Today*, Arms Control Today, Jul–Aug. 2020, at 27, 27.

[2] *See* Daryl G. Kimball, *Nuclear Testing, Never Again*, Arms Control Today, Jul–Aug. 2020, at 3, 3.

[3] For more on the development of nuclear strategy, *see generally* Lawrence Freedman & Jeffrey Michaels, The Evolution of Nuclear Strategy (4th ed. 2019); Fred M. Kaplan, The Wizards of Armageddon (1991).

[4] *See* Samuel P. Huntington, The Soldier and the State 57–58 (1957). However, this line is not sharply drawn and is arguably artificial. For additional exploration of the relationship between political and military leadership, *see generally* Lawrence Freedman, Command: The Politics of Military Operations from Korea to Ukraine (2022).

since their use would far exceed most rational military objectives.[5] They are instead "strategic" weapons whose use rests at the heart of existential political decisions for countries and their governments. As I will discuss below, these unique characteristics remain at the core of debates about their management.[6]

Although most share a desire to ensure these weapons are never employed, policymakers are often split about how to achieve that goal.[7] Some emphasize that the United States must be prepared to use nuclear weapons to maintain deterrence and achieve national objectives if deterrence fails.[8] Others are more skeptical of the stability of this arrangement and instead wish to reduce the risk of nuclear weapons use by prioritizing regulation, international agreements, and/or reductions.[9]

Given the tensions between preparing for their use and seeking to limit their existence, nuclear weapons policy has faced fundamental debates since its origin. As I will explain below, nuclear weapons still face unique challenges in the legal, political, and regulatory frameworks under which they are governed.

B. Not-So Modern Governance

In large part because of their unique history and character,[10] nuclear weapons are managed by both the Department of Defense ("DoD") and the Department of Energy via the National Nuclear Security Administration ("NNSA") within the executive branch.[11] This relationship is further complicated by entities within the DoD and NNSA that compete with one another, both to set which programs will receive priority for funding and resources, as well as to define the strategic context in which plans are developed.[12]

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[5] Nuclear Threat Initiative, *Nuclear Tipping Point (English—Full Version),* YouTube (Feb. 24, 2021), https://www.youtube.com/watch?v=5sSCqdkNJwo [https://perma.cc/56HL-YYR9] (quoting Colin Powell's assessment that "nuclear weapons . . . [are] useless. They [can] not be used"); *see* Freedman & Michaels, *supra* note 3, at 677 (observing that "use of nuclear weapons will still be deemed irrational to the extent that no rational ends could be achieved by employing them").

[6] *See infra* Part II.B.

[7] *See* Keith B. Payne, Shadows on the Wall: Deterrence and Disarmament 147 (2020) ("There is some consensus . . . [that] the goal of each [strategy] is to help ensure the absence of nuclear conflict.").

[8] *See, e.g.*, Deb Fischer, *Senator: Supporters of Nuclear Cuts Are Living in a Dreamworld*, Newsweek (June 12, 2024, 6:01 PM), https://www.newsweek.com/supporters-nuclear-cuts-are-living-dreamworld-opinion-1911925 [https://perma.cc/J7ZY-GPFQ] (arguing that land-based nuclear forces are essential to deterring U.S. adversaries).

[9] *See, e.g.*, John Garamendi, *A Congressional Perspective on Nuclear Weapons Spending and Arms Control,* Arms Control Ass'n (June 7, 2024), https://www.armscontrol.org/2024AnnualMeeting/Garamendi-remarks [https://perma.cc/8UR4-7YMS] (noting long-standing arguments for nuclear arms controls and efforts to advance same).

[10] *See supra* note 1; *infra* Part II.

[11] *See* Amy F. Woolf & James D. Werner, Cong. Rsch. Serv., R45306, The U.S. Nuclear Weapons Complex: Overview of Department of Energy Sites 1 (2021); Anya L. Fink, Cong. Rsch. Serv., R48194, The U.S. Nuclear Security Enterprise: Background and Possible Issues for Congress 1 (2025).

[12] *See* Nat'l Acads. of Scis., Eng'g, and Med. & Nat'l Acad. of Pub. Admin., Governance and Management of the Nuclear Security Enterprise 20–23 (2020),

Service branches (e.g., the Departments of the Air Force and Navy), Combatant Commands (e.g., United States Strategic Command or "STRATCOM" and geographic commands), and DoD-level actors (e.g., Joint Force, Office of the Secretary of Defense) all jostle for budgets, priorities, and control.[13]

Given these overlapping responsibilities, how does Congress regulate and oversee nuclear weapons development, planning, and employment? Historically, Congress has injected itself into these debates through means both formal (e.g., oversight hearings, appropriations, and authorizations) and informal (e.g., letters, meetings, and on-site visits), sometimes encouraging reductions in weapons systems or risk reduction and sometimes encouraging expansion or resisting arms control agreements.[14] Congress, however, also has its own internal jurisdictional divisions, which can complicate effective oversight of the process.[15]

In recent years, Congress has adopted a permissive posture toward nuclear expansion and continued projects despite significant cost growth and timeline overruns. Recently, Congress has tellingly neglected to hold public hearings on major failures and declined to press defense leaders on underlying assumptions about the role of nuclear weapons in national strategy.[16]

That is not to say that Congress has taken an entirely laissez-faire approach. Indeed, Congress has at times exercised power over nuclear weapons acquisition and policy, forcing the executive branch to adjust its posture or restraining executive freedom of maneuver,[17] even when political leadership is opposed to adding new weapons or reducing quantities.[18]

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https://nap.nationalacademies.org/catalog/25933/governance-and-management-of-the-nuclear-security-enterprise [https://perma.cc/CX2K-67N9] (discussing challenges of NNSA and DoD governance).

[13] *See, e.g.*, *id.* at 14. *See generally* U.S. Gov't Accountability Off., GAO-22-104061, Nuclear Enterprise: DOD and NNSA Could Further Enhance How They Manage Risk and Prioritize Efforts (Jan. 20, 2022), https://www.gao.gov/products/gao-22-104061 [https://perma.cc/4Z8S-N7TH] (describing difficulties of achieving alignment among these actors).

[14] *Compare* Michael Krepon, Winning and Losing the Nuclear Peace 311–15 (2021) (describing the development of the Nunn-Lugar Cooperative Threat Reduction program), *with id.* at 377–80 (describing President Clinton's failure to obtain Senate ratification of the Comprehensive Test Ban Treaty).

[15] *See infra* Part II.

[16] *See, e.g.*, Matt Korda & Mackenzie Knight-Boyle, *The Two-Hundred Billion Dollar Boondoggle*, Fed'n of Am. Scientists (June 24, 2025), https://fas.org/publication/the-two-hundred-billion-dollar-boondoggle/ [https://perma.cc/M33N-M8P4] (describing Sentinel Program cost overruns in breach of the Nunn-McCurdy Act and subsequent termination of program head by Air Force); *see also infra* Part III (describing history of congressional engagement with defense leaders).

[17] For example, Congress has consistently included provisions in the National Defense Authorization Act ("NDAA") which require the President to maintain at least 400 intercontinental ballistic missiles ("ICBMs"), *see infra* Part III.A, or required specific minimum thresholds of production for plutonium pits, *see infra* Part III.B. *See also infra* Part III.C (describing posture adjustments driven by Congress).

[18] *See* Stephen Young, *Why is Congress Funding a Nuclear Weapon the Biden Administration Doesn't Want?*, Union of Concerned Scientists (Dec. 15, 2022, 9:00 AM), https://blog.ucs.

But Congress's approach reflects an increasing deference to military leadership and acceptance of military theories on how weapons could or should be used. It indicates a return to a reliance on the "nuclear priesthood" of past years, rather than on Congress's own assessment of how to balance the costs and risks of nuclear weapons.[19]

C. The Future of Governance

It is long past time for Congress to reinvigorate our oversight of nuclear weapons policies. In this Essay, I will argue that Congress has been overly deferential to claims from the nuclear enterprise and has fallen short in its oversight of nuclear weapons policies by inadequately weighing and evaluating costs and risks.

Although Congress has tools to influence nuclear strategy and oversee the development and employment of America's nuclear arsenal, in recent years, Congress has failed to use them effectively. For example, a recent Strategic Posture Review was conducted by a bipartisan congressional commission but failed to evaluate the key constraint at the core of congressional responsibilities: cost.[20] As others have observed, the report "does not account for the major fiscal, logistical, and political constraints that would inhibit implementation of its recommendations."[21] In other examples, Congress has failed to hold hearings on the status of the severely delayed, over-budget Sentinel Intercontinental Ballistic Missile ("ICBM") program.[22]

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org/syoung/why-is-congress-funding-nuclear-weapon-the-biden-administration-doesnt-want/ [https://perma.cc/ML8L-6PCP] ("With the public support of several senior military officials, some conservative Democrats in Congress . . . decided to support Trump's new nuclear weapon, *even though the Biden administration, the secretary of defense, and Navy leadership wanted to cancel it*." (emphasis added)); Fred Kaplan, The Bomb: Presidents, Generals, and the Secret History of Nuclear War 243–44 (2020) (detailing President Barack Obama's decision to maintain the number of warheads in Single Integrated Operational Plan nuclear guidance, in part because "he would get no support for [reducing warhead numbers] from . . . Congress").

[19] *See infra* Part II.D; Steven Lee Myers, *The World; Nuclear Priesthood Gets a New Credo,* N.Y. Times (Dec. 14, 1997), https://www.nytimes.com/1997/12/14/weekinreview/the-world-nuclear-priesthood-gets-a-new-credo.html [https://perma.cc/P3D9-CEBN] ("Back in the [C]old [W]ar, some of the greatest minds of Washington pondered how best to use nuclear weapons to destroy much of the world. With theological gravity, they dreamed up concepts like 'controlled escalation' and 'mutually assured destruction,' a doctrine that came to be known simply as MAD. . . . They were called (unflatteringly) the 'nuclear priesthood,' the corps of strategists in and around the Pentagon and the National Security Council who actually contemplated waging nuclear war. Theirs was the arcane, euphemistic world of 'single integrated operational plans.' What they were really talking about was Armageddon.").

[20] *See* Cong. Comm'n on the Strategic Posture of the U.S., America's Strategic Posture, at vi (2023), https://www.ida.org/research-and-publications/publications/all/a/am/americas-strategic-posture [https://perma.cc/TA7E-UP7E] ("While [the Commission] did not conduct a cost analysis of [its] recommendations, it [was] obvious they [would] cost money.").

[21] Adam Mount, *A Not-So-Strategic Posture Commission,* Arms Control Today, Nov. 2023, at 23, 26.

[22] *See infra* Part II.

As I will explore in this Essay, the structures of Congress have amplified hawkish voices while making effective challenges of baseline assumptions more difficult. Congress's current approach is not just based on differing policy views of our members. Its shortcomings are reflective of an institutional imbalance, rendering Congress overly deferential to specific forces within the military and unable to exert a balanced form of oversight on critical questions of nuclear weapons policy. Additional internal structural and cultural dynamics have made Congress increasingly less likely to encourage reductions in spending on nuclear weapons and instead support a "ratcheting" effect where nuclear weapons are only ever increased, rather than decreased.

I argue that this shift is detrimental to the healthy exercise of civil-military relationships, the ability to develop balanced policy in the face of risks, and the important constitutional responsibilities of Congress relating to issues of war and peace.

To explore this argument, this Essay will first discuss the appropriate role of Congress in the development of nuclear weapons policy. I will identify this by connecting Congress's roles and responsibilities directly to the unique dynamics created by nuclear weapons in how they are managed and governed. I will then explore the degree to which Congress is currently implementing that role. After reviewing several examples of recent problematic approaches to nuclear weapons policy, I will then proceed to assess potential obstacles blocking a more balanced oversight mechanism. Finally, I will address the way forward and make recommendations as to how Congress can ensure that we have a rational, responsible policy toward nuclear weapons as we approach future challenges.

II. Congressional Roles and Responsibilities in Managing U.S. Nuclear Weapons

A. Constitutional Origins of Congressional Roles

It is clearly within the Founders' intent for Congress to play a role in matters of war and peace.[23] Fearful of overly empowering an executive branch which, as James Madison later observed, "is the branch of power most

[23] *See, e.g.*, The Debates in the Several State Conventions on the Adoption of the Federal Constitution: As Recommended by the General Convention at Philadelphia in 1787 258 (Jonathan Elliot ed., 2d ed. 1836) (describing remarks of Major Pierce Butler, a delegate at the Federal Convention, who noted during debates on ratification that "[i]t was at first proposed to vest the sole power of making peace or war in the [S]enate . . . . Some gentlemen were inclined to give this power to the President, but it was objected to, as throwing into his hands the influence of a monarch, having an opportunity of involving his country in a war, whenever he wished to promote her destruction."); *see also* Steve P. Mulligan, Cong. Rsch. Serv., LSB11231, The Declare War Clause, Part 2: Historical Background, Drafting, and Ratification 2–6 (2024) (describing arguments offered in favor of a congressional role in declaring war and making peace during the Constitutional Convention and ratification debates).

interested in war, & most prone to it," the Constitution "has accordingly with studied care, vested the question of war" within the legislative branch.[24]

Further, the Supreme Court has also affirmed that "[t]he Founders of this Nation entrusted the law making power to the Congress alone in both good and bad times."[25] The Constitution explicitly establishes Congress's responsibility and authority to "provide for the common Defence."[26] As the Supreme Court observed in *Torres v. Texas Department of Public Safety*, "the Constitution spells out the war powers not in a single, simple phrase, but in many broad, interrelated provisions . . . . Article I gives Congress authority to 'provide for th[at] common Defence' in six separate paragraphs."[27] Whether it is to "provide for the common Defence,"[28] "declare war,"[29] "raise and support Armies,"[30] or otherwise, Congress has numerous specified powers that indicate a central role for Congress in matters of war and peace.[31]

By contrast, executive branch powers are primarily derived from the President's role as "Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States"[32] and, to a lesser extent, the vesting of "executive Power"[33] as well as the power "to make Treaties" and appoint officers.[34] In recent years, the executive has increasingly emphasized the role of "Commander in Chief." The executive has often gone far beyond the original operational contours of this role, including by launching military strikes against foreign countries without congressional approval.[35]

These growing assertions of executive privilege to conduct strikes without direct congressional approval constitute a worrying trend. While there are certainly appropriate limits on how directly Congress should manage operational details,[36] we must also recognize that Congress's role in decisions of

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[24] James Madison, Letter from James Madison to Thomas Jefferson (Apr. 2, 1798), *reprinted by* NAT'L ARCHIVES: FOUNDERS ONLINE, https://founders.archives.gov/documents/Madison/01-17-02-0070 [https://perma.cc/YJ65-KZFM].

[25] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 589 (1952).

[26] U.S. CONST. pmbl.

[27] Torres v. Tex. Dep't of Pub. Safety, 597 U.S. 580, 590 (2022) (alteration in original).

[28] U.S. CONST. art. I, § 8, cl. 1.

[29] *Id.* art. I, § 8, cl. 11.

[30] *Id.* art. I, § 8, cl. 12.

[31] *See* CONG. RSCH. SERV., *Breadth of Congressional War Powers*, CONSTITUTION ANNOTATED https://constitution.congress.gov/browse/essay/artI-S8-C11-1-2/ALDE_00013588/ [https://perma.cc/V2A8-CP9F] (last visited Sep. 23, 2025) (summarizing congressional war powers recognized in Supreme Court decisions).

[32] U.S. CONST. art. II, § 2, cl. 1.

[33] *Id.* art. II, § 1, cl. 1.

[34] *Id.* art. II, § 2, cl. 2.

[35] *See, e.g.*, Letter to Congressional Leaders on United States Military Operations in Iran, 2025 DAILY COMP. PRES. DOC. 715 (June 23, 2025) (stating that "[President Donald Trump] acted pursuant to [his] constitutional authority as Commander in Chief and Chief Executive and pursuant to [his] constitutional authority to conduct United States foreign relations").

[36] *See* Ex parte Milligan, 71 U.S. 2, 139 (1866) (Chase, C.J., concurring) ("Congress has the power not only to raise and support and govern armies but to declare war. It has, therefore, the

war and peace is clearly in the Constitution, both explicitly within the enumerated powers and implicitly as part of the intended separation of powers. As we will explore next, the foundational questions raised by nuclear weapons do not only concern operational details regarding their employment but instead raise core constitutional debates about the separation of powers and matters of war and peace.

B. Unique Characteristics of Nuclear Weapons Policy

Nuclear weapons possess unique attributes which necessitate that their management and use should be seen as political, rather than purely military, decisions. As noted earlier, nuclear weapons are effectively "useless" for military purposes, but "nuclear weapons, while incapable of producing meaningful military effects, are extremely capable of producing political ones."[37]

The numerous reasons for this dynamic were quickly identifiable. As one of the early nuclear strategists, Bernard Brodie, observed, "[e]verything about the atomic bomb is overshadowed by the twin facts that it exists and that its destructive power is fantastically great."[38] He continued that the first atomic bomb:

> was so far ahead of the other weapons in destructive power as to threaten to reduce even the giants of yesterday to dwarf size. In fact to speak of it as just another weapon was highly misleading. It was a revolutionary development which altered the basic character of war itself.[39]

Recognizing the scale of potential destruction quickly altered other elements of military strategy. The growing quantity of such unimaginably destructive weapons made it difficult to conceptualize effective defenses; it was unlikely that any potential defense could reduce losses to a level any political leader would consider acceptable.[40]

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power to provide by law for carrying on war. This power necessarily extends to all legislation essential to the prosecution of war with vigor and success, except such as interferes with the command of the forces and the conduct of campaigns. That power and duty belong to the President as commander-in-chief. Both these powers are derived from the Constitution, but neither is defined by that instrument. Their extent must be determined by their nature, and by the principles of our institutions. The power to make the necessary laws is in Congress; the power to execute in the President.").

[37] James Wood Forsyth Jr., *Nuclear Weapons and Political Behavior,* 11 Strategic Stud. Q. 115, 124 (2017); *see supra* note 5.

[38] *See* Bernard Brodie, Arnold Wolfers, Percy E. Corbett & William T.R. Fox, The Absolute Weapon: Atomic Power and World Order 41 (1946), https://www.osti.gov/opennet/servlets/purl/16380564-wvLB09/16380564.pdf [https:// perma.cc/ZH63-LLGE].

[39] *Id.* at 2.

[40] *See id.* Then, as now, a single nuclear detonation in a major city was not something any leader could readily stomach. *See, e.g.*, McGeorge Bundy, *To Cap the Volcano*, 48 Foreign Affs. 1, 10 (1969).

Accordingly, nuclear weapons demanded new thinking on the strategy for their use and management. As Professor Lawrence Freedman and Dr. Jeffrey Michaels argue, "[t]he difference that nuclear weapons made to the concept of strategy was to turn the focus away from war-fighting to war prevention, and to forms of coercion and intimidation, including deterrence, as well as crisis management and arms control."[41]

All military operations are inherently political, but because nuclear weapons strategy relied so heavily on war prevention, nuclear weapons had to be treated differently from more traditional forms of military power. To avoid horrific outcomes, military strategy had to be closely aligned with political and diplomatic objectives. As Henry Kissinger observed, initially, "the proposition that a state might possess too much power for rational political purposes would have appeared preposterous. Yet this was precisely what happened in the Nuclear Age. The superpowers' central strategic dilemma became not how to accumulate additional power, but how to circumscribe the vast arsenals at their disposal."[42]

This perception of nuclear weapons also shifted the social norms governing their use. For example, "a particular stigma has emerged . . . which is based fundamentally on the notion that nuclear weapons are somehow different from all other weapons and simply should not be used."[43] As a result, a so-called nuclear "taboo" has emerged and "[t]he effect of this taboo has been to delegitimize nuclear weapons as weapons of war, and to embed deterrence practices in a set of norms . . . that stabilize and restrain the self-help behavior of states."[44]

Another element that contributes to the unique perception of nuclear weapons is the existence of nuclear radiation or radioactive fallout. As an unseen consequence which captures public imagination,[45] the prospect of a slow death from radiation creates a unique psychological stigma in public and lawmaker perceptions of nuclear weapons issues.[46] Further, nuclear weapons come with perpetual risks, ranging from misperceived attacks to other blunders like, for example, the 1958 Mars Bluff incident, where the Air Force accidently dropped a nuclear bomb without its fissile core over South Carolina.[47]

For these reasons, the development of nuclear policy possesses political considerations above and beyond those usually inherent in military activity.

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[41] *See* Freedman & Michaels, *supra* note 3, at xiii.

[42] Henry Kissinger, Diplomacy 607 (1994).

[43] Andrew Futter, The Politics of Nuclear Weapons 205 (2015).

[44] Nina Tannenwald, The Nuclear Taboo: The United States and the Non-Use of Nuclear Weapons Since 1945 3 (2007).

[45] For example, the 1983 film *The Day After* had a drastic impact on the American psychological conception of nuclear war. *See* The Day After (ABC Circle Films 1983), https://www.youtube.com/watch?v=TOPaaHSjMcw [https://perma.cc/CM8J-MBXY]. *See generally* David Craig, Apocalypse Television: How The Day After Helped End the Cold War (2024).

[46] *See* Spencer R. Weart, The Rise of Nuclear Fear 114–15 (2012).

[47] *See* Eric Schlosser, Command and Control: Nuclear Weapons, the Damascus Accident, and the Illusion of Safety 186 (2013).

Nuclear weapons' unique attributes require that their military use must not be divorced or separated from their political consequences. When these dynamics are considered alongside Congress's remit over matters of war and peace, it should be clear that Congress has a critical role to play in shaping nuclear strategy. Congress must play a key role in determining not just how much to spend on nuclear weapons, but also whether or how our country should be prepared to use them.

C. Congressional Tools

The means by which Congress governs nuclear weapons include, but are not limited to, legislation, hearings, and other formal and informal mechanisms. Too often, we refer to these tools as congressional "oversight," but this is a misnomer. Scoping Congress's ongoing responsibilities as mere "oversight" risks relying primarily on reactive measures in response to executive action.[48]

While these tools can and do provide oversight (a key congressional function which the Supreme Court has affirmed that Congress can use to ensure its guidance is being followed), they also enable Congress to participate in the development of policy and strategy.[49]

Before exploring these tools, it is important to note that congressional engagement on nuclear issues is shaped by the chamber's committee structure and jurisdictional lines. For example, Congress relies on a mix of authorizing committees[50] and appropriations committees[51] to govern nuclear weapons.

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[48] *See infra* Part II.C.

[49] *See* Barenblatt v. United States, 360 U.S. 109, 111 (1959) ("The scope of the power of inquiry, in short, is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution."); McGrain v. Daugherty, 273 U.S. 135, 174 (1927) ("We are of opinion that the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function."); *see also* Cong. Rsch. Serv., *Overview of Congress's Investigation and Oversight Powers*, Constitution Annotated, https://constitution.congress.gov/browse/essay/artI-S8-C18-7-1/ALDE_00013657/ [https://perma.cc/LN2G-QNCH] (quoting *McGrain*, 273 U.S. at 174).

[50] *Authorizing Committees:* The Rules of the U.S. House of Representatives, for example, *see generally* Kevin F. Mccumber, Rules Of The House Of Representatives, One Hundred Nineteenth Congress (2025) (hereinafter "House Rule __"), split nuclear weapons issues and oversight committee responsibilities between: (1) the Armed Services Committee, which has jurisdiction over delivery systems, command and control, and nuclear posture and employment, among other things, *see* House Rule X.1(c), X.3(b); (2) the Energy and Commerce Committee, which oversees health, safety, and security at nuclear weapons facilities, *see* House Rule X.1(f); (3) the Foreign Affairs Committee, *see* House Rule X.1(i); and (4) the Science, Space, and Technology Committee, which handles fundamental research at national labs with relevance for nuclear weapons, *see* House Rule X.1(p). While the Armed Services Committee is readily identified as the primary committee of jurisdiction, the other committees can exert influence and play a critical role on nuclear issues.

[51] *Appropriations Subcommittees:* In the House and the Senate, appropriations jurisdiction over nuclear weapons issues is split between two subcommittees of the Appropriations Committee, largely reflecting the split between the Department of Defense and the Department of Energy's nuclear responsibilities. The Defense Subcommittee provides funding for the

In lawmaking, authorizations and appropriations serve distinct and complementary functions. Authorizations establish or continue a federal program, agency, or activity and set parameters for what it may do.[52] Appropriations provide the legal authority for the federal government to incur obligations and spend money from the treasury.[53] Appropriations must follow the scope and purpose set by the underlying authorization.[54] Both are necessary for most federal programs to operate.

D. Congressional Input: Too Much, Too Little? Right Type, Wrong Type?

Congress's employment of these tools can provide it with a substantial role in governing nuclear policy. Congress's powers in governing the various dimensions of nuclear policy are of two types: oversight and policy-setting.[55]

Oversight ensures compliance with congressional prerogatives. Congress can examine whether the Executive Branch is fully and faithfully carrying out the policies described by Congress. On this count, Congress has a better, albeit imperfect, track record of engagement with nuclear weapons issues.[56]

Congress also sets and determines policy: is the executive aligning its priorities consistently with Congress's? Is Congress setting policy in accordance with the political will? This is an underemphasized aspect of congressional engagement. Congress remains overly focused on short-term priorities (e.g., on the acquisition and maintenance of nuclear weapons), rather than their *purpose* or long-term strategic goals.

Setting spending limits on programs is a necessary, but not always sufficient, part of executing Congress's role. For example, Congress is not fulfilling its responsibility to align means to desired ends if it continues to fund failing programs or fails to consider the implications of adversary reactions to weapons stockpile increases.

Too often, Congress focuses less on policy-setting and more on oversight of the executive entities that build the bombs (NNSA), acquire the weapons (DoD), and maintain (DoD/NNSA) and employ them (DoD). This focus is far too reactionary.

Pentagon's nuclear delivery systems, command and control networks, and operational support. The Energy and Water Development Subcommittee appropriates funds for the National Nuclear Security Administration, housed within the Department of Energy, which supports laboratories and manufacturing and oversees the design, production, and maintenance of nuclear warheads. *See* Amy F. Woolf, *Congress and U.S. Nuclear Weapons: Review and Oversight of Policies and Programs*, 14 NONPROLIFERATION REV. 499, 500 (2007).

[52] *See* JAMES V. SATURNO, CONG. RSCH. SERV., R46497, AUTHORIZATIONS AND THE APPROPRIATIONS PROCESS 1 (2023).

[53] *See id.*

[54] *See generally* U.S. GOV'T ACCOUNTABILITY OFF., GAO-16-464SP, PRINCIPLES OF FEDERAL APPROPRIATIONS LAW 2–65 (2016).

[55] *See supra* Part II.C. The word "oversight" is insufficient to capture Congress's role. Congress's role ought not be merely inspecting the executive for broad compliance but also shaping clear guidance for the executive.

[56] *See infra* Part III.

Congressional oversight plays a critical role in each of these phases of nuclear development and employment, but Congress should also play a greater role in shaping the contours of the programs it oversees. After all, the executive can execute its operations *only after* Congress has set conditions for their existence by authorizing and funding them. These decisions should not be made by asking the Executive Branch, "What do you need?" and funding that. Congress must play a more deliberative role in considering broader questions: what we are hoping to achieve, what we can afford, and what risks we will accept with our nuclear weapons policies.

Congress can use its tools and powers to go beyond enforcing compliance or amplifying programs. It can spend more of its resources and use its forums to evaluate the assumptions underlying these programs. It can and should be more active in the determination of policy for nuclear weapons.

This claim will not be without its detractors. Some argue that Congress should stay outside of nuclear policy. This argument suggests tremendous deference to the executive in the execution of military activities, adopting the idea that "Congress maximizes its effectiveness when it acts as a critic, poking and prodding the executive branch to defend its acquisition decisions, rather than attempting to dictate policy."[57] And as referenced earlier, there is precedent to suggest that Congress's role in the management of war should not go so far as to interfere with the "command of the forces" or "the conduct of campaigns."[58]

These arguments gloss over the constitutional responsibilities that the Founders set in place for Congress. In endowing Congress with both the power of the purse[59] and the assorted war powers,[60] the Founders gave Congress an important role in setting defense strategy. It is curious that Congress in recent years has seen fit to offer increasing deference to the executive.

Take, for example, the intended importance of the power of the purse. Article I of the Constitution clearly states that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."[61] The provision of this power to Congress is neither accidental nor unimportant. The Founders described how they intentionally gave this significant power to Congress, a body directly representative of the people, as an important check on executive power.[62]

When seen alongside the enumerated war powers,[63] this power of the purse makes clear that the Founders clearly intended Congress to be involved in precisely the types of questions raised by nuclear weapons. As Professor

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[57] James M. Lindsay, Congress and Nuclear Weapons 171–72 (1991).

[58] *See supra* note 36.

[59] *See* U.S. Const. art. I, § 7, cl. 1; *id.* § 8, cl. 1; *id.* § 9, cl. 7.

[60] *See* U.S. Const. art. I, § 8, cl. 11; *see also supra* Part II.A.

[61] U.S. Const. art. I, § 9, cl. 7.

[62] The Federalist No. 58 (James Madison) ("This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people.").

[63] *See supra* note 57; *see supra* Part II.A.

John Wilson Lewis notes, "Congress is not only permitted but required to act on arms control matters by the Constitution itself. Legislative 'meddling' in arms control is firmly grounded in the Constitution."[64] The same is equally true for questions of nuclear weapons and usage. As we will see, however, Congress has often failed to assert its influence over nuclear policy to establish and pursue its own desired ends, choosing instead to defer to the Executive Branch and to treat nuclear weapons as mere military matters.

III. Recent Examples of Congressional Engagement

To illustrate, we will explore three recent examples of challenges that Congress has faced in governing nuclear weapons. In each case, Congress chose to advance or accelerate major nuclear expenditures, despite increasing costs and with little divergence from the original plan, even after circumstances had changed substantially.

A. DoD and the Triad: The Sentinel Program

The United States maintains a combination of land, air, and sea-based capabilities to launch a nuclear attack, referred to as the nuclear triad.[65] The triad consists of intercontinental ballistic missiles ("ICBMs"), bombers, and submarines, respectively.[66] While the Congressional Commission on the Strategic Posture of the United States and the most recent Nuclear Posture Review reaffirmed support for maintaining and modernizing the nuclear triad, some experts outside the government have questioned the necessity of maintaining the land-based leg of the triad: the ICBMs.[67]

Despite providing steadfast support and regular funding for a nuclear triad, the planned replacement of the existing ICBMs (the LGM-30 Minuteman III) with a new ICBM (the LGM-35A) illustrates the risks of Congress inadequately scrutinizing plans to modernize the entirety of the triad simultaneously.[68]

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[64] John Wilson Lewis, *Afterword* to Alan Platt & Lawrence D. Weiler, Congress And Arms Control 215–19 (Alan Platt and Lawrence D. Weiler, eds., 1978).

[65] *Fact Sheet: The Nuclear Triad*, Arms Control Ass'n (May 12, 2025), https://armscontrolcenter.org/factsheet-the-nuclear-triad [https://perma.cc/QZ3A-X3TJ].

[66] U.S. Dep't of Def., *America's Nuclear Triad*, https://www.war.gov/Multimedia/Experience/Americas-Nuclear-Triad [https://perma.cc/Z9PG-G68B].

[67] *Compare* Cong. Comm'n, *supra* note 20, at 53, *and* U.S. Dep't of Def., *2022 National Defense Strategy, Nuclear Posture Review, and Missile Defense Review* 20 (2022), *with* Mark Thompson, *The Broken Leg of America's Nuclear Triad*, Project on Gov't Oversight (Sep. 9, 2019), https://www.pogo.org/analysis/the-broken-leg-of-americas-nuclear-triad [https://perma.cc/9QQL-AHX6].

[68] *See Sentinel ICBM*, A.F. Nuclear Weapons Ctr. https://www.afnwc.af.mil/Weapon-Systems/Sentinel-ICBM-LGM-35A [https://perma.cc/5Y59-3MAH] (last visited Oct. 13, 2025).

As stated by the Congressional Commission on the Strategic Posture of the United States, "[t]he United States is presently engaged in a multi-year, multi-program effort to modernize the entire U.S. nuclear force and its NC3 [Nuclear Command, Control, and Coordination]."[69] As the program has progressed, flawed assumptions and poor cost estimates were inadequately questioned by Congress and little, if any, work was done to adequately consider how these costs and risks would be magnified across the nuclear enterprise.

The LGM-35A Sentinel ICBM program represents perhaps the largest failure of a modern nuclear modernization program. Meant to replace the Minuteman III ICBM system,[70] the Sentinel program has been beset by issues and warning signs from the start. For example, the program was awarded as the result of a "competitive acquisition," but only "one offer was received."[71]

Since then, the program has suffered substantial cost overruns and delays. From a Defense Department press release:

> On Jan. 18, 2024, the Air Force notified Congress that the Sentinel program exceeded its baseline cost projections, resulting in a critical breach under the Nunn-McCurdy statute. A critical Nunn-McCurdy breach occurs if the Program Acquisition Unit Cost or Average Unit Procurement Cost increases by 25% or more over the current Acquisition Program Baseline. By statute, the respective program must be terminated unless the under secretary of Defense for Acquisition and Sustainment certifies to Congress that the program meets established criteria to continue.[72]

This failure belongs as much to Congress as to the DoD. The program had an initial baseline cost estimated at $77.7 billion.[73] It is now estimated to cost $264 billion over its lifetime and is not expected to be delivered until the 2040s, years behind schedule.[74]

According to Matt Korda and Mackenzie Knight-Boyle at the Federation of American Scientists, the Sentinel program's Nunn-McCurdy breach is unsurprising.[75] The program has suffered for years from unaccountability and poor performance, and prematurely dismissed potentially viable

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[69] Cong. Comm'n, *supra* note 20, at 55.

[70] *See* Anya L. Fink, Cong. Rsch. Serv., IF11681, Defense Primer: LGM-35A Sentinel Intercontinental Ballistic Missile 1 (2025).

[71] *Contracts for Sep. 8, 2020*, U.S. Dep't of Def., https://www.defense.gov/News/Contracts/Contract/Article/2340084 [https://perma.cc/R8A4-5XCV] (last visited Sep. 21, 2025).

[72] *Department of Defense Announces Results of Sentinel Nunn-McCurdy Review*, A.F. Nuclear Weapons Ctr. (July 8, 2024) [hereinafter *Department of Defense Announces Results*], https://www.afnwc.af.mil/News/Article-Display/Article/3830259/department-of-defense-announces-results-of-sentinel-nunn-mccurdy-review/ [https://perma.cc/8LCU-NWRN].

[73] *See id.*

[74] *See* Libby Flatoff, *Sentinel ICBM Exceeds Projected Cost by 37 Percent*, Arms Control Today (Mar. 2024), https://www.armscontrol.org/act/2024-03/news/sentinel-icbm-exceeds-projected-cost-37-percent# [https://perma.cc/ZFH2-ZTQQ]; Korda & Knight-Boyle, *supra* note 16.

[75] *See* Korda & Knight-Boyle, *supra* note 16.

alternatives.[76] For example, when conducting an analysis of alternatives in 2013, the Air Force included a requirement to maintain the same number of missiles deployed until 2075. This requirement meant that the selected alternative to the new system would be a life extension of the Minuteman III and the development of a follow-on system.[77] However, benchmarking the cost analysis in 2050 rather than 2075 would have required only a life extension of the existing system.

The Air Force estimated in 2012 that this alternative, to modernize the new Minuteman III into "basically new missiles except for the shell," would cost $7 billion.[78] This is clearly much lower than the estimated $264 billion lifetime cost of the Sentinel. Further, due to delays in the Sentinel program's delivery, the U.S. Air Force has determined that extending the life of the Minuteman III is now likely required, further undermining arguments that the Sentinel modernization is immediately necessary.[79]

As the acquisitions process for this program has illustrated, Congress has so far failed to sufficiently question the Air Force's early faulty assumptions or to require sufficient independent analyses of the program and its alternatives. This is illustrated by Congress's engagement surrounding the "Milestone B" determination for the program.[80]

Part of the DoD's Major Capability Acquisition process, a Milestone B decision "authorizes a program to enter into the [Engineering and Manufacturing Development] phase and commit the required investment resources to support the award of phase contracts."[81] The Milestone B review is supposed to include confirming "that all sources of risk have been adequately mitigated."[82] Instead, for Sentinel, we continue to find that some basic assumptions were not fully tested or validated.[83]

In July 2024, the Air Force announced the results of its Nunn-McCurdy review. It found that despite the expected $140.9 billion price tag, the program's continuation is "essential to national security," "a higher priority than programs whose funding must be reduced to accommodate the growth in

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[76] *See id.*

[77] *See id.*

[78] *Id.*

[79] Michael Marrow, *Air Force Can Extend Minuteman ICBMs to 2050, but with Risks: GAO*, Breaking Def. (Sep. 11, 2025, 10:50 AM), https://breakingdefense.com/2025/09/air-force-can-extend-minuteman-icbms-to-2050-but-with-risks-gao [https://perma.cc/YN59-TPBR].

[80] Fink, *supra* note 70, at 2.

[81] *Adaptive Acquisition Framework: Milestone B*, Def. Acquisition Univ., https://aaf.dau.edu/aaf/mca/milestone-b [https://perma.cc/X8XR-9HA7] (last visited Oct. 9, 2025).

[82] *Id.* The report continues, "This review requires demonstration that all sources of risk have been adequately mitigated to support a commitment to design, development and production. Risk sources include, but are not limited to, technology, threat projections, security, engineering, integration, manufacturing, sustainment and cost risk. Validated capability requirements are required for all programs." *Id.*

[83] *See, e.g.*, Audrey Decker, *Sentinel ICBM Program Needs Brand-New Silos, Air Force Says*, Def. One (May 5, 2025), https://www.defenseone.com/technology/2025/05/sentinel-icbm-program-needs-brand-new-silos-air-force-says/405077 [https://perma.cc/LWL8-SCTG].

the cost of the program," and that there are "no alternatives that will provide acceptable capability to meet the joint requirements at less cost."[84]

I remain skeptical of these findings. I expressed my disappointment at the time, stating:

> I am deeply disappointed by the decision to continue this wasteful and unnecessary endeavor. . . . For years, I have been an outspoken critic of this program, consistently raising concerns about the misuse of taxpayer dollars and its failure to effectively address our national security needs. . . . In Congress, I will continue to advocate for rigorous oversight. In 2020, the DOD stated the program would cost $77.7 billion to acquire. Just four years later, those costs have nearly doubled to over $140 billion, and costs could continue to skyrocket. . . . Congress must take decisive action and enforce rigorous oversight of our out-of-control nuclear enterprise, which is expected to cost the American taxpayer at least $1.2 trillion over the next 30 years.[85]

Since the results of the Nunn-McCurdy review, the Air Force has disclosed another setback. In May 2025, the Department announced what skeptical observers had long expected: the Air Force will need to construct entirely new silos for all 400 of the new Sentinel missiles.[86] The Air Force had initially expected to be able to reuse the existing silos from the Minuteman III missiles.[87]

Congress cannot blame these failures on the DoD or defense contractors alone. According to 10 U.S.C. § 4252, reports on major defense acquisition programs are provided to the "congressional defense committees."[88] By failing to ask critical questions or to recognize key issues in the program design, Congress helped to ensure that we are now spending hundreds of billions of dollars to develop the Sentinel while also extending the life of the Minuteman III. I view this as a failure of Congress's duty to oversee the DoD and to sufficiently engage with nuclear weapons issues. Even three years ago, outside actors reviewing the ICBM-replacement proposals were calling for a debate and stating that the DoD "should commission an independent, classified technical

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[84] *See Department of Defense Announces Results*, *supra* note 72.

[85] Press Release, Off. of Rep. John Garamendi, Garamendi Releases Statement on Sentinel Program Cost Overrun Review (July 9, 2024), https://garamendi.house.gov/media/press-releases/garamendi-releases-statement-sentinel-program-cost-overrun-review [https://perma.cc/PH8M-P22H].

[86] *See* Stephen Losey, *Sentinel Nuclear Missiles Will Need New Silos, Air Force Says*, Def. News (May 6, 2025), https://www.defensenews.com/air/2025/05/06/sentinel-nuclear-missiles-will-need-new-silos-air-force-says/ [https://perma.cc/942G-7HKY].

[87] *See* Korda & Knight-Boyle, *supra* note 16.

[88] 10 U.S.C. § 4252(e).

study (with an unclassified version) to address outstanding questions" pertaining to the program.[89]

In the face of all this difficulty with the Sentinel program, Congress has chosen to engage with the issue by repeatedly requiring a minimum of 400 ICBMs to remain on alert at all times.[90] Congress chose to provide some minimal limits on the Sentinel program in the fiscal year 2025 National Defense Authorization Act ("NDAA"), which "imposed conditional requirements on the program to ensure oversight and opportunities for competition."[91] Often, opponents of reductions accuse those urging arms control of not being grounded in reality. In my view, requiring by law a specific number of on-alert ICBMs while continuing to pour money into digging more holes for missiles seems at least as unreasonable as strategic arms reductions.

When the New START nuclear arms reduction treaty was ratified, opponents and proponents agreed to a deal that linked arms control with modernization of the nuclear enterprise.[92] Since then, congressional efforts have focused overwhelmingly on the modernization of the nuclear enterprise, with relatively little pressure regarding arms control and renewing New START.[93] This singular focus strays from an earlier consensus, where compromises linked arms control and modernization.[94]

I hope that when the new Milestone B for the Sentinel program comes before Congress, we will approach its certification with a more critical eye. I have consistently offered amendments to limit funding for this program and to force the DoD to consider alternatives.[95] A decade and many billions

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[89] Toby Dalton, Megan DuBois, Natalie Montoya, Ankit Panda & George Perkovich, *Assessing U.S. Options for the Future of the ICBM Force* 2 (Carnegie Endowment for Int'l Peace, Working Paper, Sep. 2022), https://carnegieendowment.org/research/2022/09/assessing-us-options-for-the-future-of-the-icbm-force [https://perma.cc/6LFP-MJBG].

[90] *See* Fink, *supra* note 70, at 2 ("Since the FY2017 NDAA . . . Congress has required that the Air Force deploy no fewer than 400 on-alert U.S. ICBMs.").

[91] *Id.* (citing Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub. L. No. 118-159, § 1629, 138 Stat. 1773, 2176 (2024)).

[92] *See* Krepon, *supra* note 14, at 433–35.

[93] This trend is despite the positive efforts of legislation like Representative Bill Foster's resolution to "[e]xpress[] support for the continued value of arms control agreements and negotiated constraints on Russian and Chinese strategic nuclear forces." H.R. Res. 100, 119th Cong. (2025); *see also* S. Res. 61, 119th Cong. (2025) (a version led by Senator Ed Markey).

[94] *See, e.g.*, Brian P. McKeon, *Recalling the Senate Review of New START*, Arms Control Today, Oct. 2019, at 34, 34–35, https://www.armscontrol.org/act/2019-10/features/recalling-senate-review-new-start [https://perma.cc/4NQU-59RQ].

[95] *See, e.g.*, *Committee Print—Providing for Reconciliation Pursuant to H. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2025: Markup Before the H. Comm. on Armed Servs.*, Amendment to the Amendment in the Nature of a Substitute Offered by Mr. Garamendi of California (No. 4702), 119th Cong. (2025), https://armedservices.house.gov/uploadedfiles/13_-_log_4702_garamendi.pdf [https://perma.cc/AX6P-79EM] (not agreed to by recorded vote, 25–30); *H.R. 3838, the Streamlining Procurement for Effective Execution and Delivery and National Defense Authorization Act for Fiscal Year 2026: Markup Before the H. Comm. on Armed Servs.*, Amendment to H.R. 3838 Offered by Mr. Garamendi of California (No. 5513), 119th Cong. (2025), https://armedservices.house.gov/uploadedfiles/log_5513r1_garamendi.pdf [https://perma.cc/P4WZ-5GAG] (not agreed to by recorded vote, 15–42).

of dollars after the program's inception, we are hardly closer to a suitable replacement for the Minuteman III, let alone to revisiting the assumptions that got us here in the first place.

B. NNSA: Plutonium Pit Production

Although the subject may not often receive the same publicity as the weapons themselves, congressional oversight of the production of nuclear weapons components provides another example of how Congress's failure to align costs and risks can result in failing programs. The history of plutonium pit production is illustrative. In the NDAA for fiscal year 2015,[96] Congress amended the Atomic Energy Defense Act to add requirements that NNSA produce a given number of war reserve plutonium pits by a given year.[97] This law and the subsequent plutonium pit debates highlight an instance of Congress engaging with nuclear issues in an overly prescriptive and technically infeasible way.

Plutonium pits are hollow spheres of plutonium metal which, when compressed, generate a fission reaction that acts as the "trigger" for a modern thermonuclear weapon detonation.[98] Between 1953 and 1989, the United States produced plutonium pits at the Rocky Flats Plant in Colorado, producing thousands of pits per year at peak production.[99] Rocky Flats was shuttered in 1992 following criminal violations of environmental laws, leading to the loss of plutonium pit production capabilities in the United States.[100]

In 2003, President George W. Bush proposed rebuilding this capability with a Modern Pit Facility ("MPF") with the capacity to produce 125 to 450 plutonium pits per year.[101] Despite support from three of the four relevant committees—House Armed Services, Senate Armed Services, and Senate Appropriations (via its Energy and Water Development Subcommittee)—the proposed program was ultimately not funded.[102]

One congressman's opposition to the MPF was key to its rejection. Representative David Hobson (R-Ohio), chair of the Energy and Water

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[96] Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, 128 Stat. 3292 (2014).

[97] *See id.* § 3112(b)(1), 128 Stat. at 3886 (codified as amended at 50 U.S.C. § 2538a).

[98] *See* Dylan Spaulding, Plutonium Pit Production: The Risks and Costs of US Plans to Build New Nuclear Weapons 7 (2025), https://www.ucs.org/resources/plutonium-pit-production [https://perma.cc/P3EW-U678].

[99] *See id.*

[100] *See id.*

[101] 2 Nat'l Nuclear Sec. Admin., U.S. Dep't of Energy, DOE/EIS-0236-S2, Draft Supplemental Programmatic Environmental Impact Statement on Stockpile Stewardship and Management for a Modern Pit Facility: Appendices A–H, at A-1 (2003), https://www.energy.gov/sites/default/files/EIS-0236-S2-DEIS-02-2003.pdf [https://perma.cc/Y8FU-JDNZ].

[102] *See* Spaulding, *supra* note 98, at 27–28. Representative David Hobson (R-Ohio), Chair of the Energy and Water Subcommittee of the House Appropriations Committee, was not convinced of the program's necessity. *See id.*

Subcommittee of the House Appropriations Committee, refused to approve funding for the facility without plutonium pit production requirements that were sufficiently tied to the size of the nuclear stockpile.[103] This example illustrates how congressional oversight can interrogate and engage with strategic questions even while operating within the venue of programmatic oversight.

In 2014, Congress enacted a statutory requirement directing the NNSA to establish specified levels of production: at least 10 war-reserve pits in 2024, 20 in 2025, 30 in 2026, and the capability to produce 80 pits per year in 2027.[104] This statutory obligation codified earlier Bush administration objectives to create a flexible "responsive . . . infrastructure" without tying production targets to any specific military requirements.[105] By focusing on numerical targets and timelines rather than strategic considerations, this approach exemplifies Congress's frequent focus on questions of "how much and how many" when considering nuclear issues.[106]

Whether driven by "policy" or "deference,"[107] the 2014 plutonium pit requirement and subsequent policy debates represent a clear example of how congressional engagement with nuclear weapons policy risks becoming untethered from strategic or financial tradeoffs and technical realities.

Within a few years of Congress passing its plutonium pit requirement, it became clear that the timeline Congress had legislated was not technically feasible.[108] In 2017, NNSA published a report determining 2033 was the earliest possible target date for an eighty-pit-per-year capacity.[109] Rather than recognize this reality, Congress chose in 2019 to set a new target date of 2030 in the NDAA for fiscal year 2020, delaying its original deadline by only three years.[110] It was also at this point that Congress shifted the requirement to a demonstrated production *capacity,* rather than a required production level.[111]

In 2021, NNSA Administrator Jill Hruby testified that the United States would be able to produce eighty war-reserve pits per year sometime between 2030 and 2035.[112] Rather than reevaluate the feasibility of the legislated

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[103] *See id.*

[104] Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 3112(b)(1), 128 Stat. 3292, 3886 (2014).

[105] U.S. Dep't of Def., Nuclear Posture Review [Excerpts] 2 (Jan. 2002), https://uploads.fas.org/media/Excerpts-of-Classified-Nuclear-Posture-Review.pdf [https://perma.cc/82WM-XNQY]; *see* Spaulding, *supra* note 98, at 51.

[106] Amy F. Woolf, *Congress and U.S. Nuclear Weapons: Review and Oversight of Policies and Programs*, 14 Nonproliferation Rev. 499, 501 (2007).

[107] *Cf.* Lindsay, *supra* note 57, at 7–22 (describing "conceptual lenses" for analyzing congressional action on nuclear policy).

[108] *See* Spaulding, *supra* note 98, at 32.

[109] Nat'l Nuclear Sec. Admin., U.S. Dep't of Energy, Plutonium Pit Production Analysis of Alternatives (AoA) Results & Next Steps 9 (2017), https://ehss.energy.gov/deprep/2018/BB18J19A.pdf [https://perma.cc/7ATJ-QP6Z].

[110] *See* National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 3116(b), 133 Stat. 1198, 1952 (2019).

[111] *See id.*

[112] *See* Spaulding, *supra* note 98, at 32.

timeline, Congress continues to authorize and appropriate large sums for the pit program.[113]

For years, I, alongside other members of Congress, have urged a rethink of this strategy. The NNSA can and is planning to reuse legacy plutonium pits for up to half of the new W93 warheads and will likely do the same for its W87-1 warhead.[114] Further, delays in the Sentinel missile program[115] mean that plutonium pits, once completed, will not have new weapons systems to go into. However, Congress continues to demand production for production's sake, sticking to the arbitrarily prescribed timeline. I have offered amendments that would replace that timeline with "as soon as technically feasible" or to allow for alternative timelines to be proposed.[116] Yet Congress would rather require that the NNSA fail to meet production goals, in violation of the law, potentially undermining confidence in our nuclear enterprise for the sake of an arbitrary production deadline.

C. Nuclear Weapons Programs: Submarine Launch Cruise Missile – Nuclear (SLCM-N)

One instance in which Congress did defy the President's request on a nuclear weapons system can be seen in the recent debate over the Nuclear-Armed Sea-Launched Cruise Missile (SLCM-N), first proposed by the Trump administration in 2018.[117] Congress continued to provide funding for the system against the wishes of President Biden.[118] While this does represent a

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[113] *See, e.g.*, Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, § 7035(b)(3), 136 Stat. 49, 628 (2022); National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 3111, 135 Stat. 1541, 2219–20 (2021).

[114] *See Savannah River's First Plutonium Pit Mission: Half the Cores for New Navy Warhead*, ExchangeMonitor: Morning Briefing (Apr. 17, 2024), https://www.exchangemonitor.com/savannah-rivers-first-batch-of-nuclear-cores-will-be-for-new-navy-missile-nnsa-admin-says/ [https://perma.cc/QXW7-MNB2]; Press Release, Los Alamos Study Grp., Multi-Year Delays in Plutonium "Pit" Production at Los Alamos Now Require the Use of Recycled Pits for Some New Warheads (July 2, 2025), https://lasg.org/press/2025/press_release_2Jul2025.html [https://perma.cc/SX7B-WKFR].

[115] *See* Michael Marrow, *Sentinel ICBM First Flight Date Now in Flux, Air Force Says*, Breaking Def. (June 12, 2025, 4:02 PM), https://breakingdefense.com/2025/06/sentinel-icbm-first-flight-date-now-in-flux-service-says/ [https://perma.cc/8V6J-MWJQ].

[116] *See H.R. 8070, the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025: Markup Before the H. Comm. on Armed Servs.*, Amendment to H.R. 8070 Offered by Mr. Garamendi of California (No. 4206), 118th Cong. (2024) https://www.congress.gov/118/meeting/house/117296/documents/HMKP-118-AS00-20240522-SD001.pdf. [https://perma.cc/SRJ3-YU6D] (not agreed to by recorded vote, 24–34); *H.R. 3838, the Streamlining Procurement for Effective Execution and Delivery and National Defense Authorization Act for Fiscal Year 2026: Markup Before the H. Comm. on Armed Servs.*, Amendment to H.R. 3838 Offered by Mr. Garamendi of California (No. 5466 R2), 119th Cong. (2025), https://armedservices.house.gov/uploadedfiles/log_5466r2_garamendi.pdf [https://perma.cc/C7MR-JTK6] (not agreed to by recorded vote, 26–31).

[117] *See* Anya L. Fink, Cong. Rsch. Serv., IF12084, Nuclear-Armed Sea-Launched Cruise Missile (SLCM-N) 1 (2025).

[118] *See id.*

striking example of Congress taking an active role in nuclear policy, this role is not as independent as it might first appear. In addition to reaffirming the frequently hawkish posture of Congress toward nuclear capabilities reflected above,[119] Congress's decision on SLCM-N is more a deferral to DoD priorities than fierce independent oversight of our nuclear capabilities:

> Support for the SLCM-N from senior military officials, including a chairman of the Joint Chiefs of Staff and two commanders of US nuclear forces, combined with a favorable mention by the bipartisan Congressional Commission on the Strategic Posture of the United States and a deteriorating security environment likely clinched the deal.[120]

The decision to continue the SLCM-N nuclear system against the wishes of the President emphasizes Congress's consistent focus on nuclear programs and capabilities—nearly always favoring more funding and more capabilities—rather than ensuring existing programs can be executed on time and on budget or questioning the strategic impact of new capabilities.

D. Summary of Historical Examples

To summarize, it is worth quoting at length to review the limited ways in which Congress engages and how Congress focuses on "programs, rather than policy":

> As a part of its oversight responsibilities, Congress reviews and responds to executive branch proposals for programs that support U.S. nuclear weapons policy and doctrine. Over the years, the hearings and debates that comprise this oversight process have focused mostly on requests for funding for specific programs. Congress determines which programs will receive funds (the authorization process), and it allocates funds to these programs when dividing up the overall budget (the appropriations process). Only rarely do these funding debates evolve into comprehensive debates about the underlying policy. Congress infrequently has questioned U.S. nuclear strategy, doctrine, or employment policy, nor has it debated the overall rationale for U.S. nuclear weapons programs or the relationship between these programs and other U.S. national security objectives.[121]

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[119] For example, in the case of consistently requiring 400 on-alert ICBMs. *See supra* Part III.A.

[120] Robert Soofer, *The US Is Building a Nuclear Sea-Launched Cruise Missile. Congress Must Make Sure It's Built Right*, ATL. COUNCIL: NEW ATLANTICIST (Apr. 3, 2024), https://www.atlanticcouncil.org/blogs/new-atlanticist/the-us-is-building-a-nuclear-sea-launched-cruise-missile-congress-must-make-sure-its-built-right/ [https://perma.cc/KKE5-CDSM].

[121] Woolf, *supra* note 106, at 499.

From inaccurate assumptions leading to the Sentinel program's extreme cost overruns and missed deadlines to technically impossible plutonium pit production requirements, Congress's recent history of engagement with nuclear issues has been far from successful. Sometimes this engagement is too simple and overly prescriptive, as in the cases of requiring 400 on-alert ICBMs to be deployed or setting the plutonium pit production schedule. In others, as in the case of Sentinel, Congress has been deferential to the DoD's assessment with negative results. In still others, as in SLCM-N, Congress has overridden civilian leadership advocating against military build-ups, again deferring to DoD preferences.

Although these examples may appear different, they share a common theme. The question is not whether Congress acts, because it certainly does. The question is whether Congress is acting to rein in costs, reduce risks, and reevaluate our nuclear policy. With each of these instances, Congress has recently chosen to ratchet up investments in nuclear modernization without any corresponding emphasis on arms control or other forms of risk reduction. In each case, Congress has continued to underwrite ever increasing costs.

As Woolf notes, nuclear weapons issues are fairly niche; it is difficult to attract too much attention on the part of lawmakers to questions of plutonium modernization or major missile acquisition programs.[122] This must change.

It is long past time for Congress to reassert its role in the governance of nuclear weapons, not merely by dragging along failing programs or ratcheting up numbers, but by leading a strategic review that probes deeply to see what our nation can afford and how we can avoid dangerous risks.

IV. Obstacles to Effective Congressional Engagement

Despite active engagement on these topics, Congress has not prevented major nuclear acquisitions programs from greatly exceeding their projected costs.[123] It has also taken few actions with regard to executive launch authorities, launch on attack/launch on warning, first strike, and other key policies that could determine whether or not our nation would go to nuclear war.[124] Consider, for instance, that the authority for the president to launch nuclear weapons is not explicitly stated in the U.S. Code.[125]

There are numerous dynamics that have led to tension between the executive and legislative branches in matters of war and peace. When it comes

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[122] *See id.* at 513.

[123] *See generally* Cong. Budget Off., Projected Costs of U.S. Nuclear Forces, 2025 to 2034 (2025), https://www.cbo.gov/publication/61362 [https://perma.cc/C8BT-KUYE].

[124] *See, e.g.*, Dakota S. Rudesill, *Nuclear Command and Statutory Control*, 11 J. Nat'l Sec. L. & Pol'y 365, 372 (2021).

[125] *See* Anya L. Fink, Cong. Rsch. Serv., IF10521, Authority to Launch Nuclear Forces 1 (2025) ("The U.S. President has sole authority to authorize the use of U.S. nuclear weapons. This authority is inherent in his constitutional role as Commander in Chief.").

to nuclear weapons, several obstacles have reduced the desire of Congress to debate and regulate nuclear weapons. These include the structure of Congress, psychological features of nuclear weapons issues, financial and political dynamics, and the ease of access to officials and information.

A. Structural

Congress has a responsibility to take a more active role in setting nuclear policy. However, the overall structure of Congress as an institution presents hurdles to robust engagement on foundational issues of nuclear strategy and security. These hurdles take many forms including the ideological composition of the defense committees and the split jurisdiction over nuclear weapons policy authorizations and appropriations.

In part, the lack of big-picture, strategic engagement on nuclear issues comes from the structure of the United States government. A useful model for understanding the operations of the federal government is as follows: Congress focuses on funding programs, conducting oversight, and setting the rules of the road, the Executive Branch focuses on *executing* programs in accordance with the wishes of Congress and the President, and the Judicial Branch interprets previous actions as consistent or inconsistent with the Constitution and the laws passed by Congress.[126]

This structure naturally inclines Congress towards considering questions of program funding levels and oversight of previously funded programs. Woolf explains that Congress tends to focus on "specific programs, their funding requests, and, occasionally, their relationship to broader policies," rather than theoretical or doctrinal questions like nuclear deterrence.[127] As a result of Congress's narrow scope of nuclear oversight, Woolf argues that Congress has not taken the opportunity to conduct a broad reassessment of U.S. nuclear strategy in the post-Cold War era. [128]

An additional barrier to congressional engagement is the institution's untidy structure: Congress is a *political* rather than a bureaucratic institution, with multiple decision points and decentralized power centers, contributing to inefficiency and frequent vacillating, particularly on difficult or controversial questions.[129] There exist abundant procedural maneuvers members of Congress can use to dodge or delay votes on particularly contentious issues.[130]

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[126] *See also* The Federalist No. 51 (James Madison).
[127] Woolf, *supra* note 106, at 502.
[128] *See id.*
[129] *See* Lindsay, *supra* note 57, at 161.
[130] *See* Walter J. Oleszek, Mark J. Oleszek, Elizabeth Rybicki, & Bill Heniff Jr., Congressional Procedures and the Policy Process 14 (11th ed. 2019) ("Representatives and senators on various occasions prefer to make clear-cut decisions on certain complex and far-reaching public issues. Should a major weapons system be continued or curtailed? Should the nation's energy production needs take precedence over environmental concerns? . . . . On questions such as these, members may be cross-pressured . . . . Legislators sometimes lack adequate information or time to make informed judgements . . . . As a result, legislators employ various

Committee structures and jurisdictional issues provide another force opposing broad policy debates surrounding the role of nuclear weapons in ensuring our national security. Responsibility for nuclear weapons production, remediation, workforce matters, and oversight is divided among multiple authorizing committees, with appropriations authority likewise divided among subcommittees. This dispersed structure can be a strength—allowing diverse perspectives and multiple veto points—but it also fosters siloed decision-making and impedes Congress's ability to adopt a system-wide view. It can allow issues to fall between jurisdictions and tacitly discourage action on matters that span committee lines.[131]

For example, the NNSA has been referred to as an "organizational oddity" within the federal government, marked by a bifurcated oversight structure that undermines its effectiveness.[132] While the House and Senate Armed Services Committees authorize the agency's programs, the Energy and Water Appropriations Subcommittee controls its funding. This split jurisdiction has led to a persistent mismatch between authorization levels and appropriated funds.[133]

Another potential barrier to a reassessment of nuclear strategy in Congress is the composition of the defense committees themselves. An older analysis from Dr. James M. Lindsay examined the ideological behavior of members of the defense committees compared to those of the Congress as a whole for ten Congresses, the 91st through the 100th Congresses, and found that defense committee members consistently held more "hawkish" views than the Congress as a whole.[134] While this analysis is dated, the pattern is consistent with my experience and more recent findings on U.S. foreign policy and Congress.[135] As Lindsay notes, "[d]ovish members generally do not seek a defense committee assignment because they have less interest in flag-waving and because oversight is too costly."[136]

Further, the Armed Services Committees generally seek a collegial and bipartisan approach, as evidenced by the regular yearly passage of the NDAA.[137] As noted earlier, the NDAA is perceived by the committee as

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procedural devices to handle knotty problems. A matter may be postponed on the grounds of insufficient study in committee. Congress may direct an agency to prepare a detailed report before an issue is considered. The House and Senate may establish an outside commission or select committee to study a problem. Or the House or Senate may table a measure, a procedural vote that effectively defeats a proposal without a clear judgment on its substance.").

[131] *See* Woolf, note *supra* 106, at 502.

[132] Michael A. Clauser, *Reforming the Governance and Congressional Oversight of the National Nuclear Security Administration*, *in* Nuclear Scholars Initiative: A Collection of Papers from the 2011 Nuclear Scholars Initiative 17, 28 (2012).

[133] *See id*.

[134] *See* Lindsay, *supra* note 57, at 22.

[135] *See* William Bendix & Gyung-Ho Jeong, *Hawks Versus Doves: Who Leads American Foreign Policy in the US Congress?*, 19 Foreign Pol'y Analysis, no. 4, 2023, at 1.

[136] Lindsay, *supra* note 57, at 9.

[137] *See, e.g.*, Timothy Welter, The Political Nature of Defense Policy in Congress 3 (July 10, 2018) (Ph.D. dissertation, Univ. of Mo.–St. Louis), https://irl.umsl.edu/dissertation/781 [https://perma.cc/BH25-SQVE].

foundational to its oversight.[138] While its bipartisan nature is to be commended, such a document is inevitably a compromise, and "[t]he predominance of hawks in Congress means that nearly every defense program begins with a near majority, no matter where the weapon is built."[139]

As a final note, I will suggest the idea that congressional oversight of nuclear weapons issues is enhanced when Congress operates less deferentially, with more independent centers of power (i.e., "member-driven" or "committee-driven" rather than "leadership-driven" decision making). As observed by Lindsay, Congress used to exercise more independent oversight of nuclear programs:

> For the first three decades after World War II Congress was a silent partner in U.S nuclear weapons policy making. Despite its substantial constitutional powers and despite the awesome destructive power of nuclear weapons, Congress seldom challenged administration policy, and virtually all members of Congress were content to fund whatever programs the administration requested. That congressional deference collapsed in the wake of the Vietnam War. In the 1970s and 1980s nuclear weapons policy moved to the forefront of the legislative agenda on Capitol Hill. Congress clashed with the president over an array of weapons programs, including the B-1 bomber, counterforce weapons, the MX missile, antisatellite weapons, and the Strategic Defense Initiative. Commentators dispute whether Congress's activism helps or hinders the national interest. What is clear is that today Congress is playing a significant role in U.S. nuclear weapons policy making.[140]

Since Lindsay wrote this sentence in the 1990s, we have seen a decline in the power of individual members and committees relative to congressional and presidential leadership.[141] This decline has been accompanied by increasing deference to the DoD and presidential administrations on nuclear weapons policies and programs, as evidenced above with the plutonium pit production issue and the Sentinel ICBM program. Even on SLCM-N, where Congress reversed the decision of President Biden to cancel the program, this reversal was bolstered by support from senior military officials.[142]

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[138] *See* H.R. Rep. No. 119-59, at 40 (2025) ("The committee believes that regular oversight and reauthorization of these programs and activities through enactment of an annual NDAA best supports Congress' Article I prerogatives. For over 60 years, the committee has led Congressional efforts to enact an NDAA. The annual enactment of the NDAA provides robust opportunities for congressional review and ensures national security programs and activities are carried out as Congress intends.").

[139] Lindsay, *supra* note 57, at 116.

[140] Lindsay, *supra* note 57, at xi.

[141] *See* Alan Wiseman & Craig Volden, *Committee Chairs Continue their Lawmaking Decline*, The Hill (Mar. 25, 2021, 3:01 PM), https://thehill.com/opinion/campaign/544869-committee-chairs-continue-their-lawmaking-decline/ [https://perma.cc/99X5-MFMV].

[142] *See* Soofer, *supra* note 120.

This leadership-driven decision-making presents challenges when it comes to addressing complex, existential issues like nuclear weapons policy.

B. Psychological

Despite the immense destructive potential of nuclear weapons, significant and lasting reductions in nuclear arsenals have been difficult to achieve.[143] This is in part due to the decreased salience of nuclear issues affecting what lawmakers prioritize. But public engagement alone is not sufficient, as powerful psychological dynamics can make conversations on arms reductions difficult.

With the end of the Cold War, nuclear weapons fell out of popular consciousness. Once a remote but terrifying existential threat, their use became so improbable that attention shifted to more proximate concerns. Despite severe degradation of the United States's nearest great power competitor, and despite (or perhaps because of) the decreasing public focus,[144] the United States's arsenal continued to exist at levels sufficient to inflict cataclysmic destruction.[145]

Now, few members take an active interest in dealing with nuclear issues. Quoting Woolf again, "nuclear weapons policy and programs are relatively low priorities for most members of Congress."[146] She describes that "Representative Tauscher, the chair of the Strategic Forces Subcommittee of the House Armed Services Committee, noted: 'I am accustomed to working with and debating the same handful of Members.'"[147] This echoes my experience working on nuclear issues in Congress. Woolf highlights that with their limited time, members may be more likely to focus on issues with a more direct tie to their constituents.[148]

It is only natural that, if the public is not actively engaged on nuclear issues, a Member of Congress will not dedicate significant time to fighting the entrenched nuclear bureaucracies without a deep personal interest. Even then, this opposition represents a political risk: particularly on the Armed Services Committees, one must always be wary of how one's actions are perceived to affect the security of the United States. While I believe strategic reductions in

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[143] *See* Hans M. Kristensen, Matt Korda, Eliana Johns, Mackenzie Knight-Boyle & Kate Kohn, *Status of World Nuclear Forces*, Fed'n of Am. Scientists (Mar. 26, 2025), https://fas.org/issues/nuclear-weapons/status-world-nuclear-forces/ [https://perma.cc/593K-D9KF].

[144] In my view, public engagement with nuclear issues becomes more limited when people feel incapable of affecting change or meaningfully reducing nuclear risk. Despite this, engagement does make a difference, and public engagement helped contribute to vast reductions in global nuclear arsenals during the 1980s and could do so again in the future.

[145] *See* Andrew Bacevich, The Age Of Illusions: How America Squandered Its Cold War Victory 67 (2020) ("With the passing of the Cold War, however, citing the putative danger posed by ten-foot-tall Ivans as a gauge for sizing military budgets no longer worked. Soon enough, the stewards of national security devised an alternative justification for American military power, one that emphasized capabilities to be employed rather than threats to be contained.").

[146] Woolf, *supra* note 106, at 513.

[147] *Id*. (quoting Ellen O. Tauscher, U.S. Representative, Keynote Address at the Strategic Weapons in the 21st Century Workshop Hosted by Lawrence Livermore & Los Alamos Nat'l Labs. (Jan. 25, 2007)).

[148] *See id.* at 503.

the types and number of deployed warheads would enhance national security, it is easy to recoil from actions that might be seen as "weak on defense."

The weighty responsibility of wielding nuclear weapons combined with the technological, bureaucratic, and military constituencies behind each new weapons system[149] can create "a strong incentive for policymakers to sustain a tension with an outside adversary"[150] and to maintain the nuclear status quo. Shifting this mindset requires engagement with the foundations of nuclear issues, as well as an understanding that oftentimes restraint is the greater part of strength.

C. Industry and Institutions

Another barrier to effective, risk reduction-oriented engagement with nuclear issues in Congress has to do with incentives. As mentioned, each new weapons system creates a constituency.[151] These constituencies often engage in lobbying on behalf of their favored weapons systems. This creates an inherent asymmetry: no one financially benefits from arms control or strategic arms reductions, but new weapons programs can lead to new defense contracts or increased budgets.[152]

The lobbying effort for the Sentinel program provides an illustrative example:

> Weapons contractors . . . play a central role in the ICBM lobby. Since 2018, members of the strategic forces subcommittees of the House and Senate Armed Services Committees have received $3.8 million from the 11 major Sentinel contractors. In total, ICBM contractors have donated $87 million to members of Congress in the last four election cycles alone. Contractors' influence efforts are aided by the fact that senior government officials and members of Congress often secure jobs in the arms industry when they leave government; this provides them the opportunity to lobby former colleagues. In all, the 11 ICBM contractors have spent $226 million on lobbying in the past four election cycles. They currently employ 275 lobbyists, the vast majority of whom have passed through the revolving door from influential positions in government.[153]

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[149] *See* Jerome D. Frank, *The Nuclear Arms Race and the Psychology of Power*, *in* THE MEDICAL IMPLICATIONS OF NUCLEAR WAR 474, 474 (Fredric Solomon & Robert Q. Marston eds. 1986).

[150] STEVEN KULL, MINDS AT WAR: NUCLEAR REALITY AND THE INNER CONFLICTS OF DEFENSE POLICYMAKERS 308 (1988).

[151] LINDSAY, *supra* note 57, at 22.

[152] To be clear, this claim is not one of direct or illicit financial transactions. It is instead to say that members of Congress, who represent and seek to bring federal resources to their constituents, may be more apt to see the advantage of increased defense programs, a fact well-paid defense lobbyists are quick to point out.

[153] William D. Hartung, *Inside the ICBM Lobby: Special Interests or the Public Interest?*, QUINCY INST. FOR RESPONSIBLE STATECRAFT (Aug. 7, 2024), https://quincyinst.org/research/inside-the-icbm-lobby-special-interests-or-the-public-interest/# [https://perma.cc/7HXG-3MRH].

This spending has no equivalent counterpart among supporters of nuclear weapons arms reductions. Congress could help counter this imbalance by investing more in nuclear risk reduction, arms control, and nonproliferation efforts.

Professors Gordon Craig and Felix Gilbert expound on the nature of weapons acquisition and its relationship to arms races and economies:

> The general role that armament plays in the economy of a country—increasing industrial earnings and reducing unemployment—makes it almost impossible to resist forces driving toward an arms race, and this tendency is encouraged by the apprehensions engendered by the nature of the response (or the imagined response) or potential antagonists of one's own efforts.[154]

Arms races create their own momentum. Even absent active arms race dynamics, the tension between supporters and detractors of nuclear modernization can often fall along civilian versus military lines, with the military often having certain advantages in these debates. As observed early in the development of nuclear weapons policy, "what political officers were proposing in the area of disarmament was contrary to, or was undercut by, the military."[155]

There is a tendency in congressional environments to point to past Nuclear Posture Reviews as demonstrating consistent, bipartisan support for the current nuclear weapons structure.[156] However, figures who have closely engaged with the Nuclear Posture Review have often emphasized that, rather than truly developing new thought, these processes often favor bureaucratic insiders.[157] Although there are some cases where Congress has ostensibly sought outside perspectives, bipartisan views are all too often incorrectly assumed to represent a "consensus."[158]

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[154] Gordon A. Craig & Felix Gilbert, *Reflections on Strategy in the Present and Future,* in MAKERS OF MODERN STRATEGY 863, 865 (Peter Paret ed., 1986) ("Concurrent with this inclination to rely on weapons ordered and manufactured according to notions of efficiency formed in drafting rooms, arms production tends to assume its own momentum and to create pressures and anxieties that statesmen find difficult to withstand.").

[155] Hubert H. Humphrey, *Government Organization for Arms Control*, 89 DAEDALUS 967, 979 (1960).

[156] *See, e.g.*, *FY24 Strategic Forces Posture: Hearing Before the Subcomm. on Strategic Forces of the H. Armed Servs. Comm.*, 118th Cong. 43 (2023) (statement of Dr. John F. Plumb, Assistant Sec'y of Def. for Space Pol'y) ("The 2022 NPR, which was delivered to Congress in a classified form last March and released to the public in an unclassified form last October, adopts a comprehensive and balanced approach.").

[157] *See* Joe Cirincione, *A Failure to Review America's Nuclear Posture*, BULL. OF THE ATOMIC SCIENTISTS (Oct. 28, 2022), https://thebulletin.org/2022/10/a-failure-to-review-americas-nuclear-posture/ [https://perma.cc/27SW-HBBS] (discussing flaws with prior Nuclear Posture Review processes).

[158] *See* Hans Kristensen, Matt Korda, Eliana Johns & Mackenzie Knight-Boyle, *Strategic Posture Commission Report Calls for Broad Nuclear Buildup*, FED'N OF AM. SCIENTISTS: GLOBAL RISK (Oct. 12, 2023), https://fas.org/publication/strategic-posture-commission-report-calls-for-broad-nuclear-buildup/ [https://perma.cc/YC69-RADB] ("In some respects, it reads

Another related issue is access to policymakers. On a regular basis, I have military members come through the office. Often, these are valuable conversations that help us dive more deeply into pressing national issues. However, the resources and access to elected officials available to DoD representatives—who often enter the office with a cadre of uniformed and civilian professionals—are much greater than the resources of arms control advocates. Even the limited number of members of Congress interested in engaging on these issues too often receive information from the same institutional figures operating from within the confines of traditional nuclear postures.[159]

Additionally, data within the nuclear space is often compartmentalized. While necessary for the protection of sensitive technical data, over-compartmentalization can also run the risk of preventing a healthy and robust dialogue on the underlying questions of nuclear policy.[160] From the time nuclear weapons were invented, determining the appropriate level of secrecy has presented challenges:

> [S]ecrecy reform and nuclear policy have always been in tension with democratic desires. The physicist J. Robert Oppenheimer, who had done much to create both the weapons and their secrecy, referred to the difficulty of public deliberation as the "terrible inhibition of the atom[]" . . . The secrecy, many like Oppenheimer believed, ultimately contorted American policymaking and left the American public dangerously ignorant of the evolving national and world situation.[161]

This information access challenge is present even in the rules for congressional staff security clearances. In the House of Representatives, for example, personal offices possess security clearances, but are often excluded from committee briefings because personal office staff are not authorized[162] to hold certain clearances—Secure Compartmentalized Information ("SCI")

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more like an industry report than a Congressionally-mandated study."); *see also* Mount, *supra* note 21, at 23, 25–26 (discussing bipartisan views on nuclear strategy).

[159] The House Armed Services Committee, for example, has a tendency to receive briefings primarily from the Defense Intelligence Agency ("DIA"), whereas dissenting viewpoints can be drawn from other intelligence agencies like the State Department's Bureau of Intelligence and Research ("INR").

[160] *See* Alex Wellerstein, Restricted Data: The History of Nuclear Secrecy in the United States 4 (2021).

[161] *Id.*

[162] *See* Daniel Schuman & Mandy Smithberger, A Primer on Congressional Staff Clearances: Which Staff Can Obtain Security Clearances, at What Levels, and Who Decides? (2020), https://www.pogo.org/reports/a-primer-on-congressional-staff-clearances [https://perma.cc/ZY9D-2FBH]; *see also Hearing Before the Legis. Branch Subcomm. of the H. Appropriations Comm.* 116th Cong. (2020) (statement of Mandy Smithberger, Dir. of the Ctr. for Def. Info., Project on Gov't Oversight), https://www.congress.gov/116/meeting/house/110517/witnesses/HHRG-116-AP24-Wstate-SmithbergerM-20200304.pdf [https://perma.cc/ML5U-H7DD] (requesting security clearances for personal office staff members to support members of Congress).

or, except in limited instances, Q clearances— which are often required to access information. Despite letters and testimony from members of Congress, this policy has not changed for the 119th Congress.[163] This asymmetrical access to information creates a situation in which institutional defenders of the nuclear status quo can retreat to the argument that classified information bolsters their perspective.[164]

V. Solutions

Despite the structural, psychological, and institutional challenges to more robust congressional debate, policymaking, and oversight of nuclear weapons programs and strategy, we are not doomed to fail. Congress can, and must, take steps to reassert its role in the governance of nuclear policies. These include raising the level of awareness and understanding of nuclear issues, soliciting input from a wider range of actors, questioning the faulty assumptions that have led to the perpetuation of the unstable status quo, and spending more time deliberating and legislating on nuclear issues. These solutions are far from easy and will require dedication, courage, and leadership both from members of Congress and civil society. However, in the potential opening days of a new nuclear arms race, these efforts are urgent and vital.

The failure to engage in robust conversations is complicated by a lack of in-depth discussion about the premises on which our nuclear policy is based. Too often we fail to adequately debate our underlying assumptions about the dynamics at play, and "[c]onsequently, the U.S. public debate on these issues often is superficial—focusing on competing conclusions rather than fundamental differences in the assumptions and logic behind those competing conclusions."[165]

By failing to question the underlying assumptions governing nuclear weapons policy—e.g., to prevent a nuclear war you must be prepared to

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[163] *Cf. Comm. on H. Admin. Member Day: Hearing Before the Comm. on H. Admin.,* 118th Cong. 65–67 (2023) (testimony of Rep. Sara Jacobs). Note that the Senate has since allowed one staff member per office to receive an SCI clearance. *See* Justin Papp, *In Wake of Pentagon Leak, 'Antiquated' Staff Clearance System Looks Hard To Change*, Roll Call (Apr. 27, 2023, 6:00 AM) https://rollcall.com/2023/04/27/in-wake-of-pentagon-leak-antiquated-staff-clearance-system-looks-hard-to-change/ [https://perma.cc/D7DW-FP8R].

[164] Consider, for example, that a recent GAO report which demonstrated that the Minuteman III's life could be extended was not released in a public form until September 10th, 2025, after the yearly NDAA was passed out of committee and nearing completion on the floor. *See* U.S. Gov't Accountability Off., GAO-25-108466, ICBM Modernization: Air Force Actions Needed to Expeditiously Address Critical Risks to Sentinel Transition (2025), https://files.gao.gov/reports/GAO-25-108466/index.html [https://perma.cc/ZX4U-RRL9] ("This is a public version of a classified report that GAO issued in April 2025."). This is not to suggest malicious intent, and GAO is often subject to a rigorous review process before it can publicly release certain reports, but that information would and should have informed the continued funding to the project in the FY26 NDAA.

[165] Payne, *supra* note 7, at 147–48.

fight a nuclear war; deterrence will hold; more nuclear weapons are better—Congress accedes to the sort of "logical insanity" that has underlaid much of nuclear thinking since the 1960s.[166] This type of thinking tends to obscure the argument that I would advocate for: a world with fewer nuclear weapons is a safer world. Civilian leaders within the executive branch have historically had to exert strong oversight over military proposals to rein in excessively destructive plans or avoid escalatory actions.[167]

Some will argue that this is the nature of the current political environment and that Congress is responding to public fear about foreign adversaries. These arguments too often overstate the importance of threats and don't critically assess the risks. We would do well to consider Professor James Lebovic's warning that, "[r]ather than fret about what adversaries *could* do with their weapons, we should ask what they *would* do given US retaliatory assets . . . The failure to look beyond weapons . . . reflects a pervasive blindness. It requires a careful look at the assumptions behind past US nuclear strategies, as bequeathed now to the present."[168]

One way to overcome some of these issues is to ensure that Congress is adequately soliciting input from a broader swathe of external actors, not just from those within traditional nuclear institutions. As Congress moves forward, it must spend more time questioning the assumptions being used to derive nuclear policy rather than acting as customers of DoD analysis and interpretation.[169] John Wilson Lewis is right to observe that outside groups, particularly those supporting arms control, can support by "enhancing [the legislature's] ability to distinguish and diagnose critical problems."[170] Similarly, they can help identify "[w]hat are the central *political* issues, issues that fall outside the ken of experts and soothsayers?"[171] This is ever more important as outside industry groups and defense contractors are often able to use their substantial resources to lobby the Hill for more defense spending.[172]

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[166] *See* Dan Carlin, *Logical Insanity*, Hardcore History (Mar. 31, 2012), https://www.dancarlin.com/product/hardcore-history-42-blitz-logical-insanity/ [https://perma.cc/54HQ-Y9T4]; *cf.* Nat'l Acads. of Scis., Eng'g, & Med., Risk Analysis Methods for Nuclear War and Nuclear Terrorism 135 (2023) (collecting government statements making assumptions about deterrence). *See generally* Jackson Lears, *Behind the Veil of Indifference: Lessons from a Nuclear Life*, Harper's Mag. (July 2023), https://harpers.org/archive/2023/07/behind-the-veil-of-indifference-lessons-from-a-nuclear-life/ [https://perma.cc/5P7W-ZXGP].

[167] *See, e.g.*, Fred Kaplan, The Bomb: Presidents, Generals, and the Secret History of Nuclear War 9 (2020); Tom Z. Collina & William J. Perry, The Button: The New Nuclear Arms Race and Presidential Power From Truman to Trump 23 (2020); Max Hastings, the Abyss: Nuclear Crisis Cuba 1962, at 249–53 (2022).

[168] James H. Lebovic, The False Promise of Superiority: The United States and Nuclear Deterrence After the Cold War 3 (2023) (emphasis in original).

[169] *See* Anthony Cordesman, *Strategy and the Congressional National Defense Authorization Act for Fiscal Year 2023,* Ctr. for Strategic and Int'l Stud. (Dec. 7, 2022), https://www.csis.org/analysis/strategy-and-congressional-national-defense-authorization-act-fiscal-year-2023 [https://perma.cc/QK9F-BRLG].

[170] Lewis, *supra* note 64, at 218.

[171] *Id.* (emphasis in original).

[172] *See supra* Part IV.C.

A key step is for Congress to spend more time delving deeply into the framework for these questions. At the beginning of the Cold War, a hearing on presidential launch authority took four days. [173] A 2017 hearing on the topic took only a few hours.[174] Congressional engagements, even with committees of jurisdiction, are often small, uneventful affairs.[175] While some of this may be changing, especially in light of President Trump's reckless decision to pursue a new version of President Reagan's Strategic Defense Initiative—dubbed the "Golden Dome"—and calls to resume nuclear testing, we spend minimal time truly questioning the assumptions that underpin our precarious nuclear balance.

Another key part of the solution is for Congress to properly understand these issues as not just matters of war and peace, but as deep, thorny moral and political issues; to interrogate not just which programs we are funding, but what purpose nuclear weapons serve. Congress can and should be a robust source of debate on whether the U.S. military should engage in counterforce versus countervalue targeting.[176]

As noted throughout this Essay, a deference to the military on operational details may have a place in traditional civil-military relationships,[177] but questions about which part of another society to destroy are not only military questions; they are political ones.[178] As long as the military has target lists, plans, and strategies for waging nuclear war, Congress has a responsibility to hear those plans, to provide input, and to attempt to steer those plans in a less destructive direction.

The solution must include increasing the prominence of this issue: using films like *Oppenheimer* and *House of Dynamite* or other moments of national awareness of nuclear weapons to educate the public and engage them in these debates. It also means holding more hearings on nuclear weapons issues and debating these issues in public. Despite the status quo seeming so entrenched, it is not inevitable.

By raising the public's awareness of nuclear issues, we can deal with nuclear weapons as a political problem. I firmly believe that congressional

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[173] *See* Kaplan, *supra* note 164, at 289.

[174] *See id.*

[175] *See* Norman J. Ornstein & Thomas E. Mann, *When Congress Checks Out*, Brookings (Nov. 1, 2006), https://www.brookings.edu/articles/when-congress-checks-out/ [https://perma.cc/9GD7-476Z] ("But since George W. Bush has become president, oversight has all but disappeared. From homeland security to the conduct of the Iraq war, from allegations of torture at Abu Ghraib to the surveillance of domestic telephone calls by the National Security Agency (NSA), Congress has mostly ignored its responsibilities.").

[176] *See, e.g.*, James M. Acton, *Optimal Deterrence*, Council on Foreign Rels. (June 2025), https://www.cfr.org/report/optimal-deterrence#chapter-title-0-9 [https://perma.cc/J6TM-XDRN]. *See generally* Brad Roberts, Counterforce in Contemporary U.S. Nuclear Strategy (2025), https://cgsr.llnl.gov/sites/cgsr/files/2025-05/2025-0529-CGSR-Occasional-Paper-Counterforce-In-Contemporary-US-Nuclear-Strategy.pdf [https://perma.cc/U28Z-CKEY].

[177] *See supra* Part II.D.

[178] *See supra* Part II.B.

oversight, as well as public oversight, of nuclear weapons programs and strategies, can and must be enhanced. And I do not share Woolf's opinion that this is unlikely to become a "national debate" unless a nuclear weapon is used.[179] We cannot afford to wait.

Finally, Congress should spend significantly more time, resources, and effort exploring strategic decisions in addition to programmatic ones. While Congress must play a role in setting programmatic levels, "[p]reventing nuclear war and other existential military threats requires nations today to focus more on politics than on the qualities or quantities of weapons."[180] Congress must play a leading role in determining how our nation aligns its political objectives.

If strategy is "the alignment of potentially infinite aspirations with necessarily limited capabilities,"[181] then Congress's role rests naturally at determining this balance. After all, doing so hews closely with Congress's constitutional roles: aligning the national resources—the "power of the purse"—with the limited effects that can be achieved—war powers and authorizations. The executive can play a role in executing that vision, but with such significant, constitutionally enumerated powers, Congress's role is inherently the foundation of strategic decisions.

Across the spectrum of military deployment, Congress has continued to defer to the executive and parochial interests or to posture as tougher than the executive. But nuclear strategy cannot come from programmatic increases or arbitrary capability requirements alone. "CBO's current estimate of costs for the 2025–2034 period is 25 percent (or $190 billion) larger than its 2023 estimate of $756 billion, which covered the 2023–2032 period."[182] And even this estimate likely does not include increased costs from the Nunn-McCurdy cost overrun.[183] As these costs continue to grow, it is imperative for Congress to question them.

We should recognize the importance of Congress when it comes to setting strategy and helping to determine how our nation aligns its political objectives, adopting a broader vision of what constitutes "strategy." As Craig and Gilbert emphasize:

> Strategy is not merely the art of preparing for the armed conflicts in which a nation may become involved and planning the use of its resources and the deployment of its forces in such a way as to

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[179] Woolf, *supra* note 106, at 514.

[180] George Perkovich, Fumihiko Yoshida & Michiru Nishida, Rethinking A Political Approach To Nuclear Abolition 1 (2025), https://carnegieendowment.org/research/2025/03/rethinking-a-political-approach-to-nuclear-abolition [https://perma.cc/VN4V-BXYH].

[181] John Lewis Gaddis, On Grand Strategy 312 (2018).

[182] Cong. Budget Off., *supra* note 123, at 1.

[183] *See* Xiaodon Liang, *Trump Proposes Trillion Dollar Defense Budget*, Arms Control Today (June 2025), https://www.armscontrol.org/act/2025-06/news/trump-proposes-trillion-dollar-defense-budget [https://perma.cc/DQ95-ZNGJ].

> bring a successful issue. It is also . . . the rational determination of a nation's vital interest, the things that are essential to its security, its fundamental purpose in its relations with other nations, and its priorities with respect to goals. This broader form of strategy should animate and guide the narrower strategy of war planning and war fighting.[184]

These considerations are what members of Congress must contend with when debating nuclear strategy. This debate, which is of such vital importance, cannot be the sole prerogative of the President. In fact, such deference can lead to dangerous spirals of militaristic visions. As stated by the same authors, "[w]hen strategy is freed from effective political control, it becomes mindless and heedless, and it is then that war assumes that absolute form that Clausewitz dreaded."[185]

Above all, such Congressional engagement is far better than the alternative.

> Congress not only has the right to participate in the nuclear force acquisition process but the obligation to do so. When Congress defers to the executive branch on defense and foreign policy matters it creates the functional equivalent of an autocracy, as the term *imperial presidency* implies. Whatever weaknesses democratic decision making may have, they are minor compared to those of autocratic decision making. Critics of Congress would do well to take this point to heart.[186]

Again, so long as our military is planning how it could wage wars of planetary devastation, it should not be controversial to argue that Congress must be involved.

A past Member of Congress stated that "[c]ongressmen don't understand these military things. My members rely on me, and I know who to rely on. I'd rather have one general who knows this business than a hundred senators who don't."[187] But such an argument misses the point when it comes to nuclear weapons. We can respect the technical expertise that military officials bring, but these are not just questions of how to fight a battle between armies.

Nuclear weapons raise existential questions of both policy and military strategy, and members of Congress, as direct representatives of the people, must lead in determining what we as a nation value. By holding hearings, engaging the public, offering and debating legislation, and emphasizing the

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[184] Craig & Gilbert, *supra* note 151 at 869.
[185] *Id.* at 865–66.
[186] LINDSAY, *supra* note 57, at 171–72 (emphasis in original).
[187] *Id.* at 8 (quoting Rep. L. Mendel Rivers, former Chairman of the House Armed Services Committee).

value of nonproliferation and arms control, Congress can begin to reassert itself as a player in nuclear policy and strategy.

VI. Conclusion

Sixty years ago, President John F. Kennedy wrote about nuclear weapons, stating that "[i]n the 1960s it is our works, not our rhetoric, which constitute the real test of our survival. In this age, a responsible course includes equally a strengthening of the free world's defense and new, purposeful efforts to bring the weapons of mass destruction under effective international control. This is the real strategy of peace."[188]

Key within Kennedy's reflection is the recognition that nuclear policy is not *just* about strengthening defense, but also about finding ways to reach agreements to increase arms control and reduce the risk of nuclear weapons use. In a more recent reflection, Freedman and Michaels continue the same theme that "[w]hat is often forgotten in strategic studies, preoccupied with military capabilities, is that the balance of terror rests upon a particular arrangement of political relations as much as on the quantity and quality of the respective nuclear arsenals."[189]

Going forward, these debates will be more important than ever. With a defense budget approaching a trillion dollars,[190] it is easy to forget that every policy must engage with limits. As observers emphasize ever-increasing threats and the risk of nuclear competition rises, critical congressional and public engagement in setting and establishing those limits will be vital. To use our power of the purse to ensure adherence to the law and policies prescribed by Congress, we as lawmakers must reassert our role in the nuclear weapons space.

Today is a time for all members of Congress, the Executive Branch, and American society to come together to act.

First, we must start the discussion here in Congress. Congress must once again prioritize public debate and open hearings. As noted earlier, Congress has all too often declined to press for thorough debates on the wisdom of our nuclear posture.[191] After all, our Founders, with their deep concerns about executive power, may have questioned why we entrust the sole authority to

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[188] John F. Kennedy, *Book Review by Senator John F. Kennedy of "Deterrent or Defense" by B.H. Lidell Hart, the "Saturday Review of Literature"* U.C. Santa Barbara: The American Presidency Project (Sep. 3, 1960), https://www.presidency.ucsb.edu/documents/book-review-senator-john-f-kennedy-deterrent-or-defense-bh-lidell-hart-the-saturday-review [https://perma.cc/XX22-GP6C] (reviewing B.H. Lidell Hart, Deterrent or Defense (1960)).

[189] Freedman & Michaels, *supra* note 3, at 671.

[190] *See* Off. of the Under Sec'y of Def. Comptroller/Chief Fin. Officer, Defense Budget Overview: United States Department of Defense Fiscal Year 2026 Budget Request, at 1-3 (2025), https://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2026/FY2026_Budget_Request_Overview_Book.pdf [https://perma.cc/7F2A-GRZ4].

[191] *See supra* Parts III.A, IV.

launch a barrage of potentially civilization-ending weapons to a single person. While specific applications may be understandably classified, the American people deserve to know more about nuclear weapons management and oversight. To start, Congress should hold public hearings on the Sentinel ICBM program.

Congress can also encourage cross-cutting debates and policymaking by promoting discourse across committees. Consider, for example, the recent Golden Dome project. Congress should hold public hearings not just to discuss the proposals themselves, but also the risks and costs of this program. This cannot just be a military matter; we must consider likely second- and third-order effects: how are allies and adversaries likely to respond to this action? What is the likely effect on our own resources?

A similar public dialogue must be held on NNSA. This semi-autonomous agency commands massive resources and is given tremendous responsibility to develop and maintain the United States nuclear arsenal. There must be greater public scrutiny of the agency, including its program management, topline funding, and strategic direction. Congress should consider legislation to enable greater oversight of major cost overruns.

Through it all, Congress must better align programmatic and policy concerns and take a leading role in setting a strategic vision that balances the two. Congress continues to oversee nuclear weapons as we would a conventional weapons program. In recent years, Congress's over-emphasis on programmatic compliance and underemphasis on policy has left us with a series of decisions that don't reflect strategy and certainly don't reflect Congress's responsibility to align limited resources with unlimited aspirations.

I am, of course, aware of the shifting geopolitical environments where these decisions will play out. There is plenty of concern about a resurgent Russia[192] and a growing Chinese nuclear arsenal.[193] But for all the bluster about needing to expand our arsenal to reply, there is little discussion about what the downstream ramifications of these decisions will be. There is little inquiry into our adversaries' intentions and their potential responses to a weapons buildup. Above all, there are no concrete steps toward pursuing Kennedy's aforementioned "real strategy of peace."[194]

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[192] *See, e.g.*, Robert Peters, *Don't Renew New START. It Only Helps Our Adversaries.*, Wash. Post (Sep. 5, 2025), *https://www.washingtonpost.com/opinions/2025/09/05/nuclear-treaty-russia-china-deterrence/* [https://perma.cc/4CTM-9XRV].

[193] *See* Tong Zhao, *Political Drivers of China's Changing Nuclear Policy: Implications for U.S.-China Nuclear Relations and International Security*, Carnegie Endowment for Int'l Peace (July 17, 2024), https://carnegieendowment.org/research/2024/07/china-nuclear-buildup-political-drivers-united-states-relationship-international-security?lang=en [https://perma.cc/V8KU-3N3A]; John Lee & Lavina Lee, *Implications of Chinese Nuclear Weapons Modernization for the United States and Regional Allies*, Hudson Inst. (July 30, 2025), https://www.hudson.org/defense-strategy/implications-chinese-nuclear-weapons-modernization-united-states-regional-allies-john-lee [https://perma.cc/SAY6-Y4W3].

[194] Kennedy, *supra* note 185.

Although some know the only way to win an arms race is not to run it,[195] we need more voices engaging in matters of nuclear weapons. Much of our nuclear policy engagement focuses on programmatic issues, rather than substantive assessments of the role nuclear weapons can and should play in ensuring our national security. Instead of restructuring our approach, we are doubling down on a dangerous combination of nuclear programs and hawkish, arms-race logic.

It is Congress's role as a deliberative body to translate the public will into law. This role remains at the heart of our democratic system, but it only works when we engage in thoughtful, public debate. It's long past time for Congress to exercise its constitutionally directed responsibilities by engaging the public and challenging the executive on the dangerous nuclear status quo.

However much we may treat them as abstract quantities of items purchased at incomprehensible dollar values, nuclear weapons are not just another military tool. Their very existence changes the way we consider matters of war and peace. Miscalculation on their use carries with it the potential for unimaginable destruction.

This state of affairs isn't inevitable. Congress may have enabled arms races in the past, but a reinvigorated Congress has the authority and responsibility to reduce the risk from nuclear weapons. It's time we started acting like it.

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[195] Some may remember the computer's conclusion in the 1983 film *WarGames* that nuclear war is a "strange game. The only winning move is not to play." WarGames (MGM/UA Ent. Co. 1983).