

AMENDMENT TO H.R. 8800
OFFERED BY MR. GARAMENDI OF CALIFORNIA

At the appropriate place in title XXXI, insert the following:

1 **SEC. 31 ____ . NOTIFICATION OF COST OVERRUNS FOR CER-**
2 **TAIN DEPARTMENT OF ENERGY PROJECTS.**

3 Section 6284 of title 10, United States Code, is
4 amended by striking subsections (b), (c), and (d), and in-
5 serting the following new subsections:

6 “(b) COSTS EXCEEDING BASELINE.—(1) With re-
7 spect to any project referred to in paragraph (1), (2), (3),
8 or (4) of subsection (a) that will likely exceed an amount
9 that is equal to 125 percent of the cost baseline estab-
10 lished under subsection (a) for that project, the Adminis-
11 trator or the Secretary, as applicable, shall—

12 “(A) not later than 30 days after determining
13 that the project will likely exceed such amount, no-
14 tify the congressional defense committees of such de-
15 termination; and

16 “(B) concurrently with the submission of the
17 budget justification materials submitted to Congress
18 in support of the budget of the President for a fiscal
19 year (pursuant to section 1105(a) of title 31), and

1 quarterly thereafter, provide to the congressional de-
2 fense committees a briefing on the total cost for the
3 project.

4 “(2) With respect to a stockpile life extension project
5 or new nuclear weapon program project referred to in sub-
6 section (a)(1) or a major alteration project referred to in
7 subsection (a)(2), the Administrator or the Secretary, as
8 applicable, shall—

9 “(A) notify the congressional defense commit-
10 tees of the cost for any warhead in the project that
11 has exceeded an amount that is equal to 150 percent
12 of the cost baseline established under subsection
13 (a)(1)(B) or (a)(2)(B), as applicable, for each war-
14 head in that project; and

15 “(B) concurrently with the submission of the
16 budget justification materials submitted to Congress
17 in support of the budget of the President for a fiscal
18 year (pursuant to section 1105(a) of title 31), and
19 quarterly thereafter, provide to the congressional de-
20 fense committees a briefing on the cost for any war-
21 head in the project that will likely exceed an amount
22 that is equal to 150 percent of the cost baseline es-
23 tablished under subsection (a)(1)(B) or (a)(2)(B), as
24 applicable, for each warhead in that project.

1 “(3) Not later than 45 days after the Administrator
2 or the Secretary, as applicable, makes a notification under
3 paragraph (1)(A) or (2)(A) regarding a project, the Ad-
4 ministrator or the Secretary, as the case may be, shall
5 submit to the congressional defense committees informa-
6 tion as follows:

7 “(A) A timeline under which the Administrator
8 or the Secretary shall submit to such committees the
9 assessment under subparagraph (B) and the revised
10 cost and schedule baseline under subparagraph (C),
11 subject to subsection (c)(2).

12 “(B) An assessment of the root cause or causes
13 of the growth in the total cost of the project, includ-
14 ing the contribution of any shortcomings in cost,
15 schedule, or performance of the program, including
16 the role, if any, of—

17 “(i) unrealistic performance expectations;

18 “(ii) unrealistic baseline estimates for cost
19 or schedule;

20 “(iii) immature technologies or excessive
21 manufacturing or integration risk;

22 “(iv) unanticipated design, engineering,
23 manufacturing, or technology integration issues
24 arising during program performance;

25 “(v) changes in procurement quantities;

1 “(vi) inadequate program funding or fund-
2 ing instability;

3 “(vii) poor performance by personnel of the
4 Federal Government or contractor personnel re-
5 sponsible for program management;

6 “(viii) changes to scope or requirements; or

7 “(ix) any other matters.

8 “(C) A revised cost and schedule baseline for
9 the project and, in the case of a stockpile life exten-
10 sion or new nuclear weapon program project referred
11 to in subparagraph (A) or (B) of subsection (a)(1)
12 or a major alteration project referred to in sub-
13 section (a)(2), a revised estimate of the cost for each
14 warhead in the project;

15 “(4)(A) The Secretary and the Administrator shall
16 obtain the concurrence of the Director of Cost Estimating
17 and Program Evaluation of the National Nuclear Security
18 Administration with respect to the information prepared
19 to be submitted to the congressional defense committees
20 under this subsection.

21 “(B) The Director of Cost Estimating and Program
22 Evaluation may make, at any time, an independent deter-
23 mination that the total cost for a project or warhead re-
24 ferred to in paragraph (1) or (2) will exceed the thresholds
25 described in such paragraphs. The Administrator or the

1 Secretary, as applicable, shall treat such a determination
2 by the Director as a determination made by the Adminis-
3 trator or the Secretary, as the case may be.

4 “(c) TERMINATION OR CONTINUATION OF
5 PROJECTS.—(1) Not later than 14 days after submitting
6 an assessment of the root cause and a revised cost and
7 schedule baseline under paragraph (3) of subsection (b)
8 with respect to a project referred to paragraphs (1) and
9 (2) of such subsection, the Administrator or the Secretary,
10 as applicable, shall—

11 “(A) notify the congressional defense commit-
12 tees with respect to whether the project will be ter-
13 minated or continued; and

14 “(B) if the project will be continued, certify to
15 the congressional defense committees that—

16 “(i) a review of the revised baseline has
17 been conducted by the Director of Cost Esti-
18 mating and Program Evaluation, consistent
19 with section 3221(d)(1)(F) of the National Nu-
20 clear Security Administration Act (50 U.S.C.
21 2411(d)(1)(F));

22 “(ii) the continuation of the project is nec-
23 essary to the mission of the Department of En-
24 ergy and there is no alternative to the project

1 that would meet the requirements of that mis-
2 sion;

3 “(iii) a management structure is in place
4 adequate to manage and control the cost and
5 schedule of the project; and

6 “(iv) the project will be managed in ac-
7 cordance with any lessons learned from the as-
8 sessment of the root cause.

9 “(2) If the Administrator or the Secretary, as appli-
10 cable, fails to submit an assessment of the root cause and
11 a revised cost and schedule baseline by the relevant date
12 specified in the timeline under paragraph (3)(A) of sub-
13 section (b) with respect to a project referred to paragraphs
14 (1) and (2) of such subsection, the Administrator or the
15 Secretary shall terminate such project.

16 “(d) APPLICABILITY OF REQUIREMENTS TO REVISED
17 COST AND SCHEDULE BASELINES.—A revised cost and
18 schedule baseline under subsection (b)(3) shall be subject
19 to the requirements of subsections (b) and (c) in the same
20 manner and to the same extent as a cost and schedule
21 baseline established under subsection (a).”.

