

AMENDMENT NO. _____ Calendar No. _____

Purpose: To restrict the first-use strike of nuclear weapons.

IN THE SENATE OF THE UNITED STATES—119th Cong., 1st Sess.

S. 2296

To authorize appropriations for fiscal year 2026 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MARKEY

Viz:

1 At the end of subtitle B of title XV, add the following:

2 **SEC. 1522. RESTRICTION ON FIRST-USE NUCLEAR STRIKES.**

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

4 (1) The Constitution gives Congress the sole
5 power to declare war.

6 (2) The framers of the Constitution understood
7 that the monumental decision to go to war, which
8 can result in massive death and the destruction of
9 civilized society, must be made by the representa-
10 tives of the people and not by a single person.

1 (3) As stated by section 2(c) of the War Powers
2 Resolution (Public Law 93–148; 50 U.S.C. 1541),
3 “the constitutional powers of the President as Com-
4 mander-in-Chief to introduce United States Armed
5 Forces into hostilities, or into situations where im-
6 minent involvement in hostilities is clearly indicated
7 by the circumstances, are exercised only pursuant to
8 (1) a declaration of war, (2) specific statutory au-
9 thorization, or (3) a national emergency created by
10 attack upon the United States, its territories or pos-
11 sessions, or its armed forces”.

12 (4) Nuclear weapons are uniquely powerful
13 weapons that have the capability to instantly kill
14 millions of people, create long-term health and envi-
15 ronmental consequences throughout the world, di-
16 rectly undermine global peace, and put the United
17 States at existential risk from retaliatory nuclear
18 strikes.

19 (5) A first-use nuclear strike carried out by the
20 United States would constitute a major act of war.

21 (6) A first-use nuclear strike conducted absent
22 a declaration of war by Congress would violate the
23 Constitution.

24 (7) The President has the sole authority to au-
25 thorize the use of nuclear weapons, an order which

1 military officers of the United States must carry out
2 in accordance with their obligations under the Uni-
3 form Code of Military Justice.

4 (8) Given its exclusive power under the Con-
5 stitution to declare war, Congress must provide
6 meaningful checks and balances to the President's
7 sole authority to authorize the use of a nuclear
8 weapon.

9 (b) DECLARATION OF POLICY.—It is the policy of the
10 United States that no first-use nuclear strike should be
11 conducted absent a declaration of war by Congress.

12 (c) PROHIBITION.—No Federal funds may be obli-
13 gated or expended to conduct a first-use nuclear strike un-
14 less such strike is conducted pursuant to a war declared
15 by Congress that expressly authorizes such strike.

16 (d) FIRST-USE NUCLEAR STRIKE DEFINED.—In this
17 section, the term “first-use nuclear strike” means an at-
18 tack using nuclear weapons against an enemy that is con-
19 ducted without the Secretary of Defense and the Chair-
20 man of the Joint Chiefs of Staff first confirming to the
21 President that there has been a nuclear strike against the
22 United States, its territories, or its allies (as specified in
23 section 3(b)(2) of the Arms Export Control Act (22 U.S.C.
24 2753(b)(2))).