Scowcroft, and John Warner. At least seven generals and admirals who commanded our nuclear forces feel the same way.

This does not restrict the United States when it comes to missile defense. It is very clear it does not. It is one of the things that has been said, but the people who say it ignore the obvious. It was several weeks ago when we had a NATO meeting on missile defense moving forward to make our Nation safer, and the Russians were engaged in that dialog. It was a historic breakthrough. They ignored that when they raised that issue.

As Secretary of Defense Bob Gates has said, the new treaty will impose ''no limits on us'' when it comes to missile defense.

There is a concern, as well, expressed that the treaty does nothing to address the issue of tactical nuclear weapons, where the Russians apparently outnumber us. I agree it is a serious issue that needs to be addressed, especially from a nonproliferation viewpoint, since many of these weapons are deployed in undisclosed locations. However, this treaty, like the Moscow Treaty and the original START agreement, deliberately and rightly focuses on strategic nuclear weapons.

Bipartisanship on issues of national security has been the hallmark of our Nation. Even in the toughest of times and in the most desperate political circumstances we have come together.

For example, in 1992, just after the Cold War came to an end, the Senate ratified the first strategic arms reduction treaty by an overwhelming vote of 93 to 6. Of my Republican Senators who are still here today who were in attendance for the vote—Senators BOND, COCHRAN, GRASSLEY, HATCH, LUGAR, MCCAIN, MCCONNELL, and SHELBY—all voted in support.

In 1996, the Senate voted 87 to 4 in support of START II, including the votes of Republican Senators BENNETT, BOND, COCHRAN, GRASSLEY, GREGG, HATCH, HUTCHISON, LUGAR, MCCAIN, MCCONNELL, and SNOWE.

In 2002, the Senate voted 95 to 0—that is right, 95 to 0—in support of the Moscow Treaty, and 26 of the 27 Republicans there at the time are still here today and they voted in support of that treaty.

At the peak of the Cold War, the stockpile of nuclear weapons held by all nuclear weapons states was some 70,000 warheads, 1.6 million times the power of the bomb at Hiroshima. We have reduced the number of those weapons by more than two-thirds. Yet today the combined nuclear weapon capability is still equal to 150,000 of the nuclear bombs used in World War II.

Today we have an opportunity to further reduce this threat in a responsible bipartisan way. I do not know when this session will end tonight, but I will say to my colleagues on the other side of the aisle: You have ample opportunity to debate. You have ample opportunity to offer amendments.

Time is not a good excuse. We have been in session now, this day and yesterday—we started at about 3:30. Only one amendment has been filed on the Republican side. If they truly want to engage us in an important debate about this treaty issue, do it now. Don't put it off. We have to reach the point where we can verify what is being done in Russia to make this a safer nation and to move us toward a more peaceful world.

EXECUTIVE CALENDAR

Mr. DURBIN. Madam President, I ask unanimous consent the Senate proceed en bloc to Executive Calendar Nos. 885, 886, 917, and 935; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table; that any statements relating to the nominations be printed in the RECORD, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Catherine C. Eagles, of North Carolina, to be United States District Judge for the Middle District of North Carolina, vice Norwood Carlton Tilley, Jr., retired.

Kimberly J. Mueller, of California, to be United States District Judge for the Eastern District of California, vice Frank C. Damrell, Jr., retired.

John A. Gibney, Jr., of Virginia, to be United States District Judge for the Eastern District of Virginia, vice Robert E. Payne, retired.

James Kelleher Bredar, of Maryland, to be United States District Judge for the District of Maryland, vice J. Frederick Motz, retiring.

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

The PRESIDING OFFICER. The Senator from Georgia.

THE OMNIBUS

Mr. CHAMBLISS. Madam President, I want to speak for a few minutes about the START treaty. Before I do, there is another issue that has been debated on this floor that we are going to continue debating over the next several days, and that is the issue of the funding of the Federal Government. There is an omnibus bill that has been laid out there now, which is something that happens from time to time that is simply not the way business ought to be done in this body.

As we move into the debate on the omnibus bill, there are a lot of us who want to see, obviously, the government remaining open and running at full speed. All of us within this body want to make sure as we do that, we do it the right way.

Frankly, to run in an omnibus bill at the last minute out here that has thousands of earmarks—some of which folks like me requested months and months ago, and until 2 or 3 days ago had no idea those requests would be honored and are now included in there, amounting to billions of dollars. With the issues we have now, including the election that took place on November 2 where the American people spoke loudly and clearly about the way Washington spends money, this is not the way to do business.

I intend to vote against the omnibus bill. I will speak more about that at a later date.

THE NEW START TREATY

I want to speak for a minute on the START treaty, and I want to start off by commending both Senator KERRY and Senator LUGAR who, as the chairman and ranking member on the Foreign Relations Committee, have worked long and hard on this particular measure.

This treaty was signed by the President after negotiations were completed back in the spring. By the time we got the text, and then the additions to the text, I would say it was probably into April or May, whenever it was.

Since that time, I know both Senator KERRY and Senator LUGAR have worked very hard. They have been open for discussion. I have had several discussions with Senator LUGAR about it and have explained my problems with it early on to him. He has been very receptive. I received another letter from him today further explaining some of the issues that are out there.

But that is an indication of how complex this issue is. As a member of the Armed Services Committee and the Intelligence Committee, I have had the opportunity to have any number of briefings. I have been in hearing after hearing. I have been in meeting after meeting with members of the administration as well as outside experts who believe this is right, and those who believe it is wrong. I have been involved in phone calls. I have traveled abroad to visit with our friends in both France and Great Britain to learn about what they are doing with respect to their nuclear inventory.

It is not like folks like me who have to make a decision whether to support this have not been working on it and trying to understand the complexities of this treaty. Gosh, those Members of the Senate who do not serve on Foreign Relations, Armed Services, or Intelligence do not have the benefit of the extensive briefings those who serve on those committees have had, and they have been trying to understand the operatives that are involved in this treaty also.

My concerns were laid out to Senator LUGAR early on in a letter. I have been very clear in conversations and hearings, including in an extensive conversation that I had with my longtime good friend, Senator Sam Nunn, who, along with Senator LUGAR, in my mind are the two godfathers of the Russia-United States nuclear issue.

The issues that are out there are in the process of being dealt with and resolved—but we are not there, in my mind. I cannot speak for the other 59 folks here, but I can tell you this: There are five major issues I have been concerned with from day one.

First is missile defense and what impact this treaty is going to have on missile defense. I will be honest, I expressed concern about it, including in a hearing in the Armed Services Committee with Secretary Gates, who is an individual for whom I have such great admiration and respect—we can have a difference of opinion on policy from time to time, but I know where Secretary Gates stands when it comes to the national security interests of the United States.

In response to a question I asked him in an Armed Services hearing, he satisfied me with respect to the missile defense issue. Then, like happens with so many other issues when there is a complex treaty like this, we have comments that were made in Portugal in recent weeks about phase 4 of our missile defense plan that all of a sudden raises another issue, or at least a potential issue, that has to be addressed and has to be resolved, in my mind, before I can vote for a treaty I want to support. I continue to work through that particular issue.

The second issue is the issue of modernization of the weapons in the United States. We can look ourselves in the eye, Members of this body and Members of the House, and take part of the blame. We have not funded a modernization program for the updating of nuclear weapons of the United States. Now we have called on the administration to make a commitment, and that commitment is going to have to be a financial commitment as well as a policy commitment. To the credit of the administration, they have worked in a very diligent way—I know with the prodding of Senator KERRY and Senator LUGAR—to address this issue both from a budgetary standpoint as well as a policy standpoint. Again, it is not just this administration that has to be involved. It is future administrations as well as future Congresses that are going to have to address that issue.

As we decide whether to vote for or against this treaty, we have to satisfy ourselves that future Congresses, future administrations are going to do that. How do we resolve that? I do not yet know. But it is another issue that we have to go through in our minds and satisfy ourselves on the issue of modernization before we can vote for it.

Third is an issue of verification. This is probably the major issue, at least in my mind. The Senator from Illinois just spoke about the fact that we have gone for a year or so now without having the opportunity, under the treaty that expired in 2009, to look at what the Russians are doing and likewise to give the Russians the opportunity to look at what we are doing.

It is important when there is a complex issue like this, and an issue where you have to trust the other side to do certain things, that you have the opportunity to verify after you enter into that trusting relationship with them.

The verification process that is set forth in this New START treaty is frankly significantly different from the verification process that was in the treaty that just expired. There are reasons it needed to be different, and I understand that. But there still is an issue relative to: Do we have the right kind of verification measures in place in this treaty to be able to satisfy our community, both the defense community and the intelligence community, that this treaty gives us everything we need to have to be sure that the Russians are doing what they are supposed to do?

In that vein, one way we are going about the issue of making sure the verification requirements that are set forth in here are adequate is to look at the National Intelligence Estimate that was put out 2 months ago, 6 weeks ago—whenever it was. When it did come out, I sat down and read through it. It is a rather detailed document that sets forth each of the issues in the minds of the intelligence community. And those concerns are dealt with in an appropriate way. There are still some questions in my mind with the classified portion of this treaty that I have to be satisfied with.

I started going through the NIE again, and over the weekend, when it looks like we are going to have plenty of hours to sit down with not much going on, I am going to do that. Hopefully, I am going to satisfy myself on the classified portions.

Last, what is not in this treaty is just as much of concern to me as what is in the treaty; that is, a total lack of addressing the issue of tactical weapons. I understand, because I have asked the question to the State Department, to the intelligence community, the Defense Department—about this issue of tactical weapons. Their rationale is, look, we cannot deal with tactical weapons until we get this treaty agreed to and signed and deal with the strategic side. Then we can deal with the tactical side.

I don't buy that. I think there was an opportunity that was missed. We are dealing with a country that has fewer strategic weapons than we have. They are going to be huge beneficiaries under this bill from the standpoint of the sheer numbers. On the other hand, they have hundreds and hundreds, perhaps even thousands—we really don't know—more tactical weapons than what we have. It is the tactical weapons that bother me just as much as the strategic weapons because the tactical weapon can be put in a suitcase and delivered to a location that could destroy something domestically, or U.S. assets somewhere else around the world, or people.

The lack of addressing the tactical weapons issue is a problem. Is it enough to say we should not do this? Maybe not. But there are those of us who are wrestling with the issue and trying to do it in the right way. I will have to say that in concluding my eighth year here, I have never had to vote in favor of a treaty that was this complex, this important, and had this much influence on what is going to happen with respect to the safety and security of our country for my children and grandchildren.

I commend Senator KERRY and Senator LUGAR and their staffs for a tremendous amount of work and their openness. We have never asked a question they have not attempted to respond to. I am hopeful, over the next couple days, a week, however long we are going to be here, if we conclude it or if we conclude it next year, that we will be able to ultimately come together as a body and address this issue in a right and positive way.

I yield the floor.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I am here to join my colleagues who believe that now is the time to ratify the New START treaty. The New START treaty is a continuation of a long history of bipartisan arms control cooperation and it is the culmination of President Ronald Reagan's consistent appeal, as mentioned in previous remarks, to trust, but verify when we are dealing with Russia. At a time when much of America is fed up with this body's inability to work in a bipartisan fashion, I hope we can still work across the aisle to strengthen America's national security and deal with the threat that is posed by nuclear weapons. I certainly applaud the leadership of Senator KERRY and Senator LUGAR and the work they have done on this issue heading the Foreign Relations Committee.

Much like previous arms control treaties, including the old START treaty signed by President George H.W. Bush and the SORT treaty signed by President George W. Bush, the New START treaty is squarely in the national security interests of the United States. The New START treaty will reduce the limit of strategic nuclear arms aimed at the United States. The United States and Russia will be bound to a lower number of nuclear weapons, which will be 30 percent fewer than the current limits under the SORT treaty. The treaty's new rules allow us to count Russia's nuclear weapons more accurately. That is a critical piece as we listened to the concerns of Senator CHAMBLISS about whether we can verify what is going on. These new counting rules give us the ability to more accurately figure out what is happening with Russia's nuclear arsenal.

In addition, New START leaves us the flexibility to determine our own force structure and maintain a robust deterrent capable of protecting us and our allies.

Despite all the concerns raised, this treaty does nothing—let me repeat

that, this treaty does nothing—to constrain our missile defense plans. Further, it allows for the modernization of our nuclear weapons complex. We have already heard from the three directors of our nuclear labs that they are happy with the commitment this administration has provided to modernization of our nuclear arsenal. The treaty restores a critical verification regime that was lost when the old START treaty expired. We have gone over a year without important intelligence from these on-the-ground inspections. This gap hinders our insight into Russia's program.

Much like previous agreements, this treaty deserves broad bipartisan backing in the Senate. Past treaties have benefited from overwhelming support in this body. The original START treaty was ratified by a vote of 93 to 6. We can see that on this chart. START II was ratified 87 to 4. The SORT treaty, negotiated by George W. Bush, was ratified by a vote of 95 to 0. That is incredible—no opposition to that treaty. New START has earned the backing of an overwhelming number of foreign policy experts and national security officials across a broad political spectrum, both Republican and Democratic. New START has the unanimous backing of our Nation's military and its leadership, including Secretary Gates, the Chairman of the Joint Chiefs, the commander of America's Strategic Command, and the Director of the Missile Defense Agency. America's military establishment is joined by the support of every living Secretary of State from Secretary Jim Baker to Secretary Condoleezza Rice, as well as five former Secretaries of Defense, nine former National Security Advisers, and former Presidents Clinton and George H.W. Bush. I know people cannot read this because the writing is so small, but this is the column of former Presidents and Cabinet-rank officials who support New START. Look how long the list is. This is the list of those Cabinet-rank officials who oppose it.

America's intelligence community also strongly supports the New START treaty. It has now been 376 days since we last had inspection teams on the ground in Russia monitoring its nuclear program. Every day we go without this critical intelligence is another day that erodes our understanding of Russia's intentions, plans, and capabilities. New START gives us on-the-ground intelligence we currently do not have and also, for the first time, includes a new unique identifier system which allows us to better track Russia's missiles and delivery systems.

I heard the Senator from Georgia expressing a question about whether this gives us the ability we need to verify what Russia is doing. New START gives us more inspections per facility per year than the old START treaty did. Without this critical information, our intelligence community is hindered from an accurate assessment and our military is forced to engage in costly worst-case-scenario planning.

Our NATO allies also support New START. As chair of the subcommittee responsible for NATO, I am mindful of the defense and security of our NATO alliance members living in Eastern Europe. I was pleased that at the recent NATO Lisbon summit, all 28 NATO allies gave their strong unanimous support for ratification of the New START treaty. In fact, some of the treaty's strongest backers are those countries that are our allies along Russia's borders. The NATO Secretary General said: ''A delay in the ratification of the START treaty would be damaging to security in Europe.''

Finally, ratification of this treaty should be important to those who are concerned with the nuclear threats posed by Iran and North Korea or who are worried about the threat that is posed by terrorists around the world who are seeking a nuclear weapon or nuclear materials.

I know some critics look at the New START treaty in isolation and say this arms agreement has nothing to do with these proliferation threats. I couldn't disagree more. What does it say to our allies and partners around the globe if we turn our back on a long history of bipartisan support for working with Russia to reduce the nuclear threat? Delaying ratification of a treaty with so much bipartisan support from our military and the national security and foreign policy establishments, a treaty that is so obviously in our national interest, tells the world we are not serious about the nuclear threat. It says we are not serious about our responsibilities under the nonproliferation treaty. I know my colleagues on both sides of the aisle agree we should do everything in our power to make sure Iran and North Korea and al-Qaida do not have nuclear weapons. If we abdicate our position as a leader on nuclear arms control, we risk losing the authority to build international consensus and stopping rogue nations and ending nuclear proliferation around the globe.

Earlier this year, Brent Scowcroft, former National Security Adviser under President George H.W. Bush, testified to the Foreign Relations Committee that ''the principal result of non-ratification would be to throw the whole nuclear negotiating situation into a state of chaos.'' It is much too dangerous to gamble with nuclear weapons or our national security at a time when we are working with our international partners to press Iran and North Korea on their nuclear weapons programs.

In testimony before the Foreign Relations Committee, former Defense Secretary James Schlesinger said that a failure to ratify this treaty would ''have a detrimental effect on our ability to influence others with regard to, particularly, the nonproliferation issue.''

That sentiment was echoed by five former Republican Secretaries of State in an op-ed written for the Washington Post a couple weeks ago.

One of the arguments we have heard this afternoon is that we are rushing consideration of this treaty. This is not true.

This chart is an outline that shows how much time has been spent in the past as treaties have come to the floor. The fact is, the Senate has thoroughly considered the New START agreement. We have had plenty of time to review the treaty. Since it was signed in April, the treaty text has been available for everyone to read. It has not changed. We have had over 250 days to examine the treaty and ask questions of the administration. The Senate Foreign Relations Committee held 12 hearings on the treaty.

There were another nine held by other committees. In contrast, there were only four committee hearings held on the SORT treaty and only eight held on START II. The Foreign Relations Committee also accommodated some Members' concerns earlier this year by delaying a vote on the treaty during the August recess. The Obama administration has answered over 900 questions for the record on New START. Nearly every major foreign policy or national security expert has weighed in on the treaty, either in testimony, briefings or in the press.

The history of treaties such as New START shows that the concern that there isn't enough time on the floor to consider this treaty is not accurate. In general, arms control agreements take an average of 2 to 5 days of floor time. The original START treaty, which was much more complicated and complex and the first of its kind, took only 5 days of floor debate. START II took 2 days of floor consideration. The most recent SORT treaty took 2 days of floor debate. We have already had almost 2 days of floor debate. Other arms control agreements, such as the Treaty on Conventional Armed Forces in Europe and the Chemical Weapons Convention, took 2 days of floor time. We have had more than enough time to consider this treaty on the floor.

Finally, some have expressed concerns that the Senate should not be forced to work so close to their holiday vacations. I think it is important to repeat what retired BG John Adams said in response to that concern. He said:

> We have 150,000 U.S. warriors doing their job over Christmas and the New Year. The U.S. Senate should do its job—and ratify this treaty.

I could not agree more with Brigadier General Adams. The Senate should get its work done. We should ratify New START. We should do it before the holidays, before we go home, in this session of Congress. It is time to vote on this critical national security concern.

I yield the floor.

Mr. KERRY. Mr. President, I ask unanimous consent that the order to return to legislative session be delayed and occur at 7 p.m., with the order then

for recognition of the majority leader still in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President. It is a delight to see you in the chair.

Mr. President, let me make a brief comment on the last comment from my colleague about the work schedule of the Senate because I have been one of those folks who have decried the fact that we are dual-tracking the START treaty and the Omnibus appropriations bill here with just a week left before Christmas.

I do think it is an imposition on our families and our staff that we need to be working during this period of time. I do not think there is anybody in this body who works any harder than I do. I do not claim to be the hardest working, but I am no stranger to hard work, and I am happy to be here right up to Christmas Eve if that is what it takes.

But my complaint is that this is a problem that has been brought on by the Democratic leadership. All year long, we had the opportunity to do a budget. Did we ever do a budget? No. All year long, we had the opportunity to pass appropriations bills. This is the first time in my memory that the Senate never passed a single appropriations bill—not one.

So now here we are, with a week to go before Christmas, trying to cram everything into the same short period of time. We have to pass a bill to fund the operations of government which will cease on Saturday at midnight. We could have done that in the last 300 days of this year, but, no, we wait until the very last minute. We wait until the last minute to do the tax legislation that just passed out of the Senate and the House is considering this afternoon. In addition to that, we are trying to consider the START treaty. That is the concern a lot of us have.

But let me return to where I was earlier today when I was talking about some of my concerns about the treaty, laying the predicate for some of the amendments we will have as soon as we are done with our comments, our opening statements about the treaty itself.

I had last talked about the modernization program, and Senator KERRY and I had a brief conversation about that, agreeing that this was a very important part of the ability of the United States to have a credible nuclear deterrent. We were talking about the nuclear weapons part of that.

There is a second part of our nuclear deterrent, and that is the delivery vehicles—the missiles, the submarines, the long-range bombers, the cruise missiles—those components of our so-called nuclear triad that enable us to effectively deliver the warheads in the event that should ever be required.

The problem with this part of the modernization package is that we do not have the degree of certainty that I think we need to have the assurance that moving forward with an even lower number of warheads is a safe thing to do. Specifically, we have asked the administration for but have not received assurances with respect to the long-range bomber, the ICBM, and the Minuteman III. Let me just mention those two things.

With regard to the long-range bomber, we have repeatedly asked: Will we have a nuclear capable long-range bomber? That is what the bomber leg of the triad is—a nuclear-capable bomber. Now, it could be a penetrating bomber, it could be a manned bomber, it could be a bomber that carries cruise missiles to get to the target, but it needs to be nuclear capable. We have no assurance. So while everybody in the administration continues to say: ''We believe in our nuclear triad, we must have a nuclear triad,'' we are not getting any satisfaction on the question, What about the bomber leg of the triad?

Our current long-range bomber cruise missiles are due to be retired in 2025. Will there be a follow-on? Again, no reassurance. No funding has been provided in the 1251 plan that I spoke of earlier for replacement of an ICBM Minuteman III.

There is some very troubling language in the 1251 update on a follow-on assessment study. I am going to quote what this assessment study will be predicated on. This is for the ICBM. It is a study that—and I am quoting—''will consider a range of deployment options, with the objective of defining a cost-effective approach for an ICBM follow-on that supports continued reductions in U.S. nuclear weapons while promoting stable deterrence.''

That supports continued reductions in the U.S. nuclear weapons. So the key criteria here is not to carry whatever weapons we think are necessary but, rather, an ICBM force that will be determined and sized in order to achieve those reductions. What I am wondering is whether that suggests that the administration might not maintain an ICBM capability so that it can pursue further reductions or that the ICBM follow-on system will be based on plans for reductions.

Mr. KERRY. Will the Senator—

Mr. KYL. Let me just complete this thought, if I could.

The administration's arms control agenda—my belief—should not be the key factor in determining the level of our ICBM capability.

I will make a note here and allow my colleague to interrupt.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator very much. I just thought it would be helpful if we can talk about a few of these things as we go along.

What I want to ask the Senator is what he thinks is inadequate in the resolution of ratification. Declaration 13 makes it clear that the United States is committed to accomplishing the modernization and replacement of the strategic delivery vehicles.

The service lives of the existing strategic delivery vehicles run well past the 10-year life of this treaty. So my question would be, since the DOD has already scheduled study and decision deadlines, timelines, for the replacement of all of these systems—so since that is outside of the four corners of the treaty, so to speak, why would declaration 13 not state that we are committed to proceeding to the full modernization and replacement of the adequate delivery vehicles?

Mr. KYL. Mr. President, I will be happy to respond to that.

Let me respond first by quoting two key officials from the Obama administration: Secretary Gates and Under Secretary of Defense Jim Miller. This is what I gather their decision is going to be based on.

First, Secretary Gates:

> There are placeholders for each of the modernization programs because no decision has been made. They are basically to be decided, and along the lines that Admiral Mullen is just describing, those are decisions we are going to have to make over the next few years in terms of we are going to have to modernize these systems and we are going to have to figure out what we can afford.

Deputy Under Secretary of Defense Jim Miller:

> We think the current ICBMs are extremely stable and stabilizing, particularly as we de-MIRV to one warhead each.

I would interject, remember, we are doing that while the Russians are MIRVing, which, of course, creates more instability under this treaty.

But to go on with the quotation:

> But we will look at concepts that would make them even more survivable over time, which would allow them to be part of a reserve force.

My point in reading these two quotations is to suggest to my colleague that it is troubling that the administration is not willing to commit to making a decision, is not willing to commit to having a nuclear-capable bomber force, is not willing to say that the ICBM force will support the delivery of the warheads required for that leg of the triad but, rather, will be based on what we can afford and be based on our desire to continue to reduce U.S. nuclear weapons, and that perhaps we are developing them in order to be part of a reserve force.

All of this suggests that the one quotation that was read by my colleague is a nice statement but does not reflect the reality of what the administration is actually planning on.

Mr. KERRY. Will the Senator yield further?

Mr. KYL. Yes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. As the Senator knows, a legitimate certain amount of analysis has to be made by DOD in order to be able to submit to the Congress a plan that is realistic both in cost and judgment about what the size will be.

Every single testimony, from the Joint Chiefs of Staff through Secretary Gates, has committed to the maintenance of a viable triad. That could not be more clear in this record.

Mr. KYL. If I could just interrupt my colleague, who interrupted me.

Mr. KERRY. Absolutely.

Mr. KYL. A viable triad at a minimum, per se, has to include nuclear capability or it is not part of our nuclear triad, right? And what I am saying here is that the administration is not assuring us that the long-range bomber will be nuclear capable. So maybe we have a dyad now, not a triad.

Mr. KERRY. Mr. President, again—

Mr. KYL. Go ahead. I will yield to my colleague.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. This is very important to the sort of understanding of where we are here and what the real differences are.

All of these systems, all three—DOD has scheduled and put out a timeline. Now, they have to go through that process. The fact is, they have stated in the 1251 report that they are going to replace the Ohio class submarine when it commences scheduled retirement in 2027. I do not think President Obama is going to be there in 2027, unless there is some extraordinary transition in America. So this goes way beyond this administration in terms of a decision and in terms of a Congress. The Navy is going to sustain the existing Trident II through at least 2042. That is on the books right now with the robust life extension program. The current Minuteman life extension program will keep the fleet in service through 2030. And DOD has already begun the preparatory studies on replacement options, which will begin in 2012. And the soon-to-be-completed long-range bomber issue the Senator just raised is only on what type of new bomber is needed, not whether there will be a new bomber.

So the future Congresses and future administrations are really going to make this decision. So to suggest that somehow the Obama administration can right now have this treaty held accountable to decisions where every one of those delivery platforms is going to be in existence well beyond the life and public service of any of us here I think is a completely inappropriate standard.

I would ask my colleague, why a 2027 date and a 2042 date and a 2030 date and a commitment to a bomber, even though they do not know what kind of bomber, why that is not satisfactory?

Mr. KYL. Let me answer a question with a question.

First of all, given the fact that I think we are taking 30-minute segments each and we are having a debate here, can we agree that we will debate until 7 o'clock, and you can have half the time and I will have half the time? Either that or I am going to have to quit yielding to make my points.

Mr. KERRY. No, no, no. I appreciate that. And the Senator is always good about engaging in this.

Mr. KYL. And I am happy to do it either way.

Mr. KERRY. I just think it is important to get it out. I do not need that time. I think it is important. I want Senator KYL to have his time—

Mr. KYL. Let me respond to this question.

Mr. KERRY. And I will not interrupt him, but I wanted to try to see if we could not engage a little in what the Senate does, which is debate.

Mr. KYL. Mr. President, first of all, this is the kind of engagement we need on this treaty and on so many other issues in this body. Too many times it is a Senator coming down and giving a speech, and half of us or more are not listening. And this kind of colloquy can develop more useful material for our colleagues and for the record than anything else. So I am very happy to engage in it. I just want to make sure I do not run out of my time with my colleague's questions.

But here is how it relates, and here is the importance.

We are being told that even though the delivery systems—and remember, this treaty deals with warheads and delivery systems. Let's leave the warheads off to the side for a moment. The delivery systems—which are the submarines with their missiles, the long-range bombers, with cruise missiles in some cases, and our ICBM force and the Russian counterparts—those delivery systems are constrained in this treaty. The numbers are brought down to 700 deployable systems. So the question we have asked, naturally enough is, Is that enough? Will that work to cover all of the targets we need to cover?

I talked this morning about—and the answer to that question depends in part on what our future plans are because—take the B–52. Most of the pilots who are flying B–52s—I think we are two generations beyond the time these B–52s were built. These are old, aging aircraft. And everybody realizes even the B–1s and to some extent the B–2s need to be replaced. So the decisions to do that need to be made very soon.

Whether 700 is a good number will depend on whether we have an adequate triad to deliver these weapons when the time comes. So naturally we ask the question, What is our triad going to look like? It is true that some of these systems—the new systems that replace what we currently have—will not be available until outside the 10-year limit of the treaty.

But it is also true that every one takes an inordinate amount of time. How do they take so much time? I don't know. It seems as though in World War II we had all kinds of weapons systems come together to be built and fight the war and it is over in 5 or 6 years, but nowadays it takes 5 or 6 years just to get something ready to go, and then it takes them that long to deploy. So these are long timeframes for development and deployment.

It is true the Navy has already made the basic decision for the submarine, but I haven't mentioned the Navy. That is not my concern. But my concern is the IBM force and the bomber force.

I will leave the point with this: What is troubling to me is that on the bomber force, our administration is unwilling to commit we will have a bomber triad nuclear capable. That is an important decision, because if we are talking about 700 delivery vehicles that will not include nuclear-capable bombers, I have a problem. The reason is, because when you get briefed on how we are going to deliver these weapons if, God forbid, they ever have to be delivered or how we are going to deal with a potential Russian breakout, for example, or how we are going to deal with a problem if, let's say, we have an issue with one of our submarine or ICBM components to the triad, if we don't have a bomb-carrying or cruise missile-carrying nuclear capability with our bombers, then it is quite obvious the viability of our triad is implicated.

So we have to know these things. It is not some esoteric question. We are talking about delivery systems being brought down to 700 and is that too low. It is not too low if we have a very viable triad, but it becomes too low if our triad is not viable.

In the time remaining, let me talk about missile defense. This is something a lot of my colleagues have talked about. It is kind of core to the concerns a lot of us have with the treaty and, frankly, my ultimate support or not will depend, to some extent, on how we resolve this issue, whether it is by amendment to the preamble or the treaty or the resolution of the ratification or a combination of things. But, clearly, this treaty implicates U.S. missile defense, and that is wrong.

One of the chief achievements of the Bush administration was to finally decouple missile defense and strategic offensive weapons and the treaties that deal with strategic offensive weapons. It was somewhat limited in the START treaty, but in the Moscow Treaty of 2002 we said: We are going to reduce our weapons. If the Russians want to do the same, that is fine with us. We don't need a treaty to deal with that. The Russians essentially said: We want a treaty, and we want you to limit your missile defenses. We said no, and they eventually relented and said OK.

I have spoken with Secretary Rice and Under Secretary Feith and other people in the administration who count it as one of their achievements, the fact that we finally decoupled those two issues. In this treaty, they are right back together again and in a way that is inimicable to other defenses by the United States. That is what I want to focus on. We don't think there should be any limitations on U.S. missile defense. Yet the New START treaty not only contains specific limitations, though we were told there wouldn't be any, but it also reestablishes this unwise linkage I talked about in the preamble.

Let me quote three things that Under Secretary Tauscher said as of March 29 of this year:

The treaty does nothing to constrain missile defense . . . this treaty is about strategic weapons. There is no limit on what the United States can do with its missile defense systems.

The third quote:

There are no constraints to missile defense.

Those three statements are not true because it turns out there are limitations and constraints specifically in the treaty. Article V, section 3 specifically constrains a particular kind of missile defense, the United States using a strategic offensive silo, for example, to use for defense. We have done that before. Our current plans are not to do it again because it is expensive. We might not do it in the future. This administration says it doesn't want to, but it is certainly constraining. How can you say those three statements by Under Secretary Tauscher are true? They are false. The administration simply says: Well, yes, there are limits, but we don't intend to do that anyway, so it is kind of a theoretical limit.

Well, in the first place, why is there a limitation on any missile defense capability in this treaty? We thought this was about, as Secretary Tauscher said, strategic weapons. Well, it turns out the Russians, of course, want to make it also about missile defense. One way they make it about missile defense is by article V, section 3 or paragraph 3, specifically constraining a particular way we would develop missile defense.

That is what we object to, that linkage. Why is that important? Because the Russians have always wanted to limit U.S. missile defenses, and this now gets the foot in the door for them to argue that under the treaty, they would have a right to withdraw if we improve our missile defenses. That gets to the real issue, and that is the preamble to the treaty.

I wish to quote from Richard Perle and Ed Meese, both of whom served in the Reagan administration. Richard Perle was with President Reagan at Reykjavik, a seminal moment in arms control history and for the Reagan administration. It was a time when President Reagan decided missile defenses for the United States were so important that he would walk away from a major strategic offensive weapon proposal that had been made to him by President Gorbachev. Here is what they write:

With this unfortunate paragraph, New START returns to the old Cold War 'balance of terror' and assumes that attempts to defend the U.S. and its allies with missile defenses against strategic attack are threatening to Russia and thus destabilizing. Limiting missile defenses to preserve U.S. vulnerability to Russian strategic nuclear strikes (as defined by the Russians) will result in less effective defenses against any and all countries, including Iran and North Korea.

That is the problem.

How does that problem arise? Because of the language in the preamble. This is the language followed by two signing statements from Russia and the United States that define the intentions of the two countries with respect to this issue of missile defense. Here is what the preamble states:

The current strategic defensive arms do not undermine the viability and effectiveness of the strategic arms of the parties.

That is what it says, in part.

Quote:

Current strategic defensive arms do not undermine the viability and effectiveness of the strategic arms of the parties.

''Current,'' that is new language. That was not in the START I treaty. So what they are doing is defining the current systems. Why is that important? Because later they talk about any additions that would qualitatively or quantitatively improve our system would allow the Russians to withdraw.

Here is what—well, let me just make one point before I quote that. The administration says the preamble is not important because you can always walk away from a treaty, and even though the Russians say this preamble language gives them the right to walk away from the treaty, they can do it anyway, so what is the big deal?

Well, you can't just do it on a whim. We agree that if there is a matter that is so important to either country that it constitutes an exceptional circumstance referred to in article XIV which is the withdraw clause, then a party could withdraw. So, yes, it is true, that either party can define anything as an exceptional circumstance and therefore withdraw, but that is bad faith and it clearly is something that would be very difficult for a country to do, unless a country had built into the treaty the very excuse that they are talking about as grounds for leaving the treaty. What would that extraordinary event be? Well, it would be the improvement of U.S. missile defense systems.

Here is what Foreign Minister Lavrov said on March 28:

[T]he treaty and all obligations it contains are valid only within the context of the levels which are now present in the sphere of strategic defensive systems.

That is their position. That is their legal position. That is what they mean by ''current'' in the preamble. The reason that legal opinion is important is because the United States does intend—if you believe Secretary Gates and I certainly do—does intend to develop missile defense capabilities that could qualitatively advance our protection against a missile coming from Russia. It is not necessarily designed for that purpose. It may be designed to thwart an ICBM from Iran or from North Korea, but it has that capability and the Russians can easily define it as such.

Here is the Russian legal opinion:

The treaty between the Russian Federation and the United States of America on the reduction and limitation of strategic offensive arms signed in Prague on April 8, 2010, can operate and be viable only if the United States of America refrains from developing its missile defense capabilities, quantitatively or qualitatively.

Well, we will develop our missile defense capabilities quantitatively and certainly qualitatively. That is what the phased adaptive approach Secretary Gates has announced is all about: a qualitative improvement of our missile defense capabilities. So how would the Russians treat that? Their statement, their signing statement, signed at the time that the treaty was signed, says the exceptional circumstances referred to in article XIV, the withdrawal clause of the treaty, include increasing the capabilities of the U.S. missile defense system in such a way that threatens the potential of the strategic nuclear forces of the Russian Federation.

That is why this preamble is so important. They treat it as the legal basis for their withdrawal if we improve our missile defenses qualitatively, which we most certainly will, and potentially quantitatively.

They have already built this into the record. From my point of view and a lot of my colleagues, this can only be read as an attempt to exert political pressure on the United States to forestall continued development and deployment of our missile defenses, and there is evidence it has already worked. First of all, we have pulled back from the deployment of the ground-based interceptor system that the Bush administration had developed and was prepared to deploy in Poland with the radars associated in Czechoslovakia, and we have also said now that with respect to our NATO deployment of the so-called phased adaptive approach, the first three phases will be deployed, but the fourth phase, the one that is most effective against an ICBM coming from long range, which could include a country such as Russia, is available—not deployed but available—by 2020.

Instead of having a firm rebuttal in response to what the Russians said in the preamble and in their signing statement accompanying the signing of the treaty, what was our response? It was not a firm rebuttal. We didn't say: No, that is not correct. That is not our understanding. That is not what we did, even though we had done that, by the way, with the START treaty. We pushed back very firmly on the Russians' signing statement. But instead, the State Department response to the Russian unilateral statement is as follows:

The United States of America takes note of the statement on missile defense by the Russian Federation. Defense. The United States missile defense systems are not intended to affect the strategic balance with Russia. The United States missile defense systems would be employed to defend the United States against limited missile launches, and to defend its deployed forces, allies and partners against regional threats. The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative

approach to strengthening stability in key regions.

In other words, don't worry, Russia. We are not going to develop missile defenses that could thwart your strategic offensive capabilities. We are only developing missile defenses that would be effective against regional threats, against limited missile launches, against limited attack.

So it appears to me that while the Russians have built into this treaty and into the preamble the perfect argument for withdrawal and they have directly said it constitutes exceptional circumstances under their interpretation of article XIV, the United States has not responded with a negative but rather with a statement that says: Don't worry.

Might I inquire, is the original 30 minutes which this side was allotted consumed?

The PRESIDING OFFICER. The Senator from Arizona has no time limitation right now because there is no one following.

Mr. KYL. Let me do this, since I do see Senator CASEY on the floor, and Senator KERRY may have something more to say. Let me try to sum up what I am saying about missile defense, although there is much more to talk about, and this will very definitely be the subject of maybe even the first amendment that is offered on our side because there has been such a cavalier attitude about this on the other side: We don't need any amendments. We don't need any missile defenses. This is serious business. You would never enter into a contract to buy a car or a house, for example, with a degree of uncertainty or disagreement between the parties as to what the terms mean. Think about this treaty. This is a very serious proposition that starts with a fundamental disagreement between the parties and clearly could create enormous complications in our relationships in the future.

If I could just finish this point. Instead of creating a more stable relationship, a relationship built on the reset, a relationship which is built on very clear, transparent views of things on how we are moving forward together, built into this treaty is an inherent conflict that can cause nothing but trouble in the future unless the United States says: Fine. We will not develop any missile defenses that could conceivably be effective against Russia, which then means that they couldn't be effective against an ICBM from Iran or an ICBM from Korea.

This is the dilemma presented by this treaty and its preamble terms. This is what causes us such great concern. I am happy at this point to yield to my colleague, and if he would like to engage in a colloquy, that would be fine.

Mr. KERRY. Mr. President, I thank the Senator from Arizona. I want to take a moment, though, to address this point he made—I think it is central—and then we can talk about it. Then I want to give Senator CASEY an opportunity to speak.

I say to my colleague from Arizona that a lot of us are scratching our heads trying to figure out what we have to do to get the Senator from Arizona to accept yes for an answer—yes on modernization, yes on our willingness to go forward and build a missile defense.

It has been said again and again and again by the highest officials of our government—and I think the President will make some further statement about this, hopefully, within the next hours or the next day—that can indicate the absolute total commitment to proceed forward and the irrelevance of what the Senator is referring to in the context of a statement that is not within the four corners of the agreement, that has no legal binding authority at all—none.

Don't accept my word for it. Secretary of Defense Robert Gates, whom I know the Senator respects enormously, said the following on May 25:

> So you know the Russians can say what they want. But as Secretary Clinton said, these unilateral statements are totally outside the treaty, and they have no standing. They are not binding. They never have been.

That is one statement.

LTG Patrick O'Reilly is the Director of the Missile Defense Agency. He testified on June 16, and this is a yes:

> I have briefed the Russian officials in Moscow, a rather large group of them, in October of 2009. I went through all 4 phases of the phased adaptive approach, especially phase 4. And while the missiles that we have selected, as far as the interceptors in phase 4, as Dr. Miller says, provide a very effective defense for a regional-type threat, they are not of the size that have a long-range to be able to reach strategic missile fields.

He says:

> It's a very verifiable property of these missiles, given their size, and so forth. It was not a very controversial topic of the fact that a missile given the size of the payload, could not reach their strategic fields. I have briefed the Russians personally in Moscow on every aspect of our missile defense development. I believe they understand what it is and that those plans for development are not limited by this treaty.

So in the treaty ratification resolution—here I will make the Senator from Arizona happy, but I will also not please him. The happy part: If we want to be purely technical and sort of be kind of literal as to technical writing of some particular thing, can we say that article V has a limitation on strategic defense? Yes, in the most limited technical way we can say there is a limitation. The limitation is that we can't take intercontinental ballistic missile silos, other than the four already grandfathered—the new ones—and convert them into an interceptor missile silo.

In that sense, we have limited something, but have we limited missile defense? As we think about it in its larger strategic context, the answer is, no, not one iota. Why? Because those particular silos cost more money, and in a deficit-conscious age, where we are trying to cut spending, it is a heck-of-a-lot smarter to dig a new hole, build a new silo that is more effective, more efficient, less costly, and does the same thing. That is our plan.

So there is no limitation on the ability to actually deploy missile defense. So if we want to play a technical game on the floor and run away and say: Oh, there is a limitation here; that is terrible, well, you can do that, but it doesn't make sense. It doesn't actually limit the plans of this administration to go forward with real missile defense and with a system that allows us to intercept missiles fired from a silo in a missile field in the United States.

What is more, if we do convert those other silos, we don't have a mechanism for determining what kind of missile is coming out of there. Is it an ICBM or an interceptor? What happens if we are firing one of those missiles to intercept a rogue missile from North Korea or wherever, and the Russians happen to misinterpret it and they don't know what it is—there is no plan or anything that says we can do that.

In fact, we are safer, given the way the administration has decided to deploy this. Here is what the resolution of ratification says: It says in understanding No. 1, missile defense—and this is what we will vote on. It says it is the understanding of the United States that the New START treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of article V that I just referred to about the silos that we don't want to do anyway, which costs the American people more and will make us less safe. We don't want to do that. So that is in there. That is all that is in there.

It then goes on to say that this provision shall not apply to ICBM launchers that were converted prior to the signature of the treaty. Then paragraph (b) says any additional New START treaty limitation on the deployment of missile defense, beyond that one I just referred to that we are talking about, including any limitations that come out of the Bilateral Consultative Commission, those would require an amendment to the New START treaty which could only enter into force with the advice and consent of the United States Senate. That is it. We have control over whatever might happen beyond that one simple silo issue.

I respectfully suggest we ought to listen to the folks who are telling us what they have accomplished. The Secretary of Defense said, from the very beginning of this process more than 40 years ago, the Russians have hated missile defense. It is because we can afford it and they can't; and we are going to be able to build a good one and are building a good one, and they probably aren't. They don't want to devote the resources to it, so they try to stop us from doing it through political means.

This treaty doesn't accomplish that for them. That is what Secretary Gates has said. This treaty doesn't accomplish it. I believe Secretary of Defense

Gates. I believe GEN Patrick O'Reilly, who serves our country with one purpose. He is not a member of a party or here for politics. He believes he is defending the Nation. He says he told the Russians in full that we are doing phase 4. We are going forward.

Finally, Secretary Clinton said to the Foreign Relations Committee that the Obama administration has consistently informed Russia that, while we seek to establish a framework for U.S.-Russian BMD cooperation, the United States cannot agree to constrain or limit U.S. BMD abilities operationally, numerically, qualitatively, geographically, or in other ways. I don't know how much more ''yes'' you can have in statements.

One last thing with respect to the comment about how they can withdraw: Mr. President, they can withdraw for any reason they want, at any point in time, just by noticing us that they are going to do that. Guess what. So can we. Both parties have the right to withdraw. So this isn't some new component they can withdraw from. The point I make to my colleague—and he is very intelligent and knows these issues very well—the Senator from Arizona knows we can't unilaterally get another country to change its perception of how they may feel threatened. That is what drove the arms race for 50 years.

If the United States of America has an ability to knock down their missiles that they think defend them, and all of a sudden they no longer believe those missiles can defend them because we can knock them down, what do you think they are going to do? They are going to scratch their heads and say: Wow, we ought to develop some method to guarantee that they can't knock them down, or that we have enough of them so that we can overwhelm whatever system they have that knocks them down.

We went through this with President Reagan, and we have spent billions trying to pursue this. We understand that.

The fact is, they are just stating a truism. Those are not my words; those are Dr. Henry Kissinger's words, who said all the preamble does is acknowledge that they believe there is a connection. We have stated simultaneously that we don't care if they believe there is a connection. We stated that. Secretary Clinton stated it, Secretary Gates stated it, and the President has said we are going forward with our phase 4.

Now, it is not connected. There is no legal, binding connection whatsoever in this treaty. This treaty does not constrain America's capacity to develop a robust, qualitatively superior, improved system. If we do, we are going to make a decision, when we deploy it, to accept whatever consequences come with whatever shape and form we do deploy. But there is no restraint on our ability to do it.

In fact, my colleagues on the other side of the aisle ought to be leaping at this opportunity because it, in effect, codifies America's intent and codifies our independence and capacity to go off and do what we are going to do. I wish I could get the Senator from Arizona to accept yes.

Mr. KYL. I have a brief response. There are concerns by a lot of colleagues on my side of the aisle, so it is not just a matter of satisfying JOHN KYL. Let's understand that. I would be happy to take yes for an answer—if that were the answer.

My colleague confuses two things. First, the preamble has been agreed to by both parties. This is not just a Russian statement of intent. The preamble is part of the treaty that we have agreed to. For the first time, it connects missile defense with strategic offensive limitations by saying the current strategic defensive arms do not undermine the viability and effectiveness of the strategic arms of the parties.

Secondly, my colleague says it is a technical argument that the treaty otherwise constrains missile defenses. It is more than a technical argument. It specifically does—and there was no place in this treaty for any limitation on missile defenses or how important or unimportant they are. Why would the Russians insist on putting that in there except to establish the beachhead? The point is that, yes, a strategic arms control treaty will deal with missile defense. It does, and the preamble does too by linking the two.

Why is this important? There is not a technical statement in the treaty that says the United States will limit its missile defenses. That is true. But because the Russians interpret the extraordinary events—the technical term under article IV that would permit a country to withdraw—as specifically including the U.S. development of missile defenses that are qualitatively better than we have now, better than current policy, because that is their interpretation, whether or not we agree with that interpretation, we have created a dichotomy between the two parties to a very important contract. They interpret it one way and we interpret it another. What will the inevitable result be? Disagreement between our countries about a fundamental point, one which, according to the Russians, will require them to engage in a new round of the arms race that will begin, according to President Medvedev.

They are saying: If you don't agree with this, under the circumstances we are going to engage in another round of strategic offense weapon building.

What we on our side are concerned about is that President Obama, who has already backed off the deployment of the GBI system, which was the most robust American missile defense system, and has qualified, it appears, the deployment of the fourth phase of the phased adaptive approach, and who other people in the administration speak in terms of that—I am talking about the State Department and our signing statement—they suggest we would only develop a missile defense against a limited or regional threat.

Those are reasons to believe this position of Russia is already working to cause the United States to back away from what would have otherwise been a much more robust development of missile defenses to protect the people of the United States.

So that is the argument we are making. We can say that, technically, anybody can withdraw from the treaty all they want to and the preamble doesn't mean anything or so on. Well, it appears to have already had a significant meaning within this administration is the point we are trying to make.

Mr. KERRY. Well, Mr. President, I want the Senator from Pennsylvania to be able to have his chance, and we are running out of time, but I disagree with the Senator with respect to the judgment he has made with regard to what it does or does not do, and we will have an opportunity to be able to further discuss that component of it.

But let me remind the Senator of what Secretary Gates said this May. He said, under the last administration as well as under this one, it has been the U.S. policy not to build a missile defense that would render useless Russia's nuclear capabilities. It has been a missile defense intended to protect against rogue nations, such as North Korea and Iran or countries that have very limited capabilities. He went on to talk about the expense and capacity we have today.

We are going to continue to develop whatever the best system is we are able to develop that could protect the United States of America. We support that. The administration could not be more clear in its determination to continue to do that, including phase IV. I will submit, when we get time and come back, further statements and further clarification to the Senator that hopefully can give him a comfort level that there is no dichotomy, that we are proceeding forward, and the Russians understand what we are doing.

We should not misinterpret. Preambles have historically incorporated statements that one side or the other need for domestic consumption for their politics. There is no misinterpretation here about where we are headed, what we are committed to do, and I would think the recent announcement by the administration in Lisbon and the embrace of this effort through the European countries, our allies, would be strong testimony to the direction we are moving with respect to this missile defense.

We will continue this. I look forward to doing that with my colleague. I thank him for his courtesy, and I look forward to further discussion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I am grateful for the work our chairman, Chairman KERRY, has put into this

treaty over many months now—in fact, many years when you consider his work as a member and now chair of the Foreign Relations Committee.

We are grateful for the debate we have just heard. These are critically important issues we are talking about, and that is one of the reasons why it is critically important we make sure the American people know what the stakes are. Without ratification of this treaty, we are, in fact, less safe than we should be. I think the American people understand that. I also believe the American people want to make sure that even upon ratification of this treaty, the New START treaty, that in no way will our security be undermined as relates to our nuclear arsenal. We can say, without qualification and without hesitation, that ratification of the New START treaty doesn't in any way undermine the safety, security and effectiveness and even the reliability of our nuclear arsenal.

So these are critically important issues. We know there has been kind of a side debate about time and timing. We know that in addition to all the living Secretaries of State who have supported ratification, former President George Herbert Walker Bush, Secretary Gates, and Admiral Mullen, our leading national security team—but also I think the American people—want to tell us in a very direct way that we are going to continue to work up to and through the holidays, if that is necessary, because I think a lot of Americans agree with what BG John Adams recently said:

> We have 150,000 United States warriors doing their job over Christmas and the new year. The U.S. Senate should do its job and ratify this treaty.

That is not a comment by a public official, that is from BG John Adams.

We know similar treaties in the past have been overwhelmingly bipartisan. I think when we finally get to the vote, this will be as well, and there is evidence of that both in the Foreign Relations Committee—a committee I am proud to be a member of, working with Chairman KERRY on this treaty ratification and the work done in the committee—but also we are seeing a lot of bipartisanship as well in the Senate as we are discussing the eventual ratification.

I wished to talk about two or three issues but, first of all, ratification as it relates to verification.

I think in our own lives, no matter who we are, when we are making an important decision and we are reaching conclusions, we want proof. We want information that is conclusive so we can make important decisions in our own lives. The same is true, and certainly even more urgent, when we are talking about nuclear weapons. When we talk about a treaty that we are working to ratify, we are talking about a couple of basic issues. One of them is verification.

What does verification mean? Well, it means that, for example, the American people hope we have in place—and they know we will upon ratification—a verification and tracking system that will give us the assurance that will allow us to be secure in the knowledge we are going to be able to do everything humanly possible to verify. The treaty contemplates ways to do that, and there are four or five I will mention.

First of all, invasive onsite inspections, as you would want in any situation in your own life. You would want to make sure you can be onsite. The problem right now is, we have gone all these months without verification in place. So we want to have boots on the ground and experts trained to verify what the situation is when they are reviewing the Russian nuclear weapons.

Second, it allows us to use the wonders of American technology to help us on this—the so-called national technical means.

Third, what is referred to as ''unique identifiers'' placed on each weapon so you can track each weapon because of that identifier. That is a critically important part of this.

The data exchanges between our two countries and certainly the prompt notification of the movement of weapons.

This treaty permits up to 18 short-notice, onsite inspections each year to determine the accuracy of Russia's data and to verify compliance. We will talk more about that later.

But of course when the American people talk to us, they tell us they expect us to get this right. They want to make sure there is a very strong verification structure in place as we go forward. Without ratification, we would not have that verification in place, and I think a lot of people in the country expect us to ratify for that reason alone, in addition to the other reasons.

We had a good debate today about missile defense—a second issue I will address—and I know we are short on time, but the Senate Foreign Relations Committee made it absolutely clear in the resolution of ratification of the treaty that the treaty itself would not constrain missile defense. Two understandings within that—understandings No. 1 and No. 2—as well as declarations No. 1 and No. 2 specifically address and reiterate the U.S. commitment to developing and deploying missile defenses.

Nothing in this treaty will prevent us from having a safe, secure, and reliable nuclear arsenal and nothing will constrain our ability to have missile defense. In fact, as Chairman KERRY noted—and it is important to repeat this—the committee's resolution that brought the treaty to the floor goes to great lengths to reaffirm and further clarify the treaty's preamble, and Russia's unilateral statement imposes no limits on our ability to develop and deploy these missile defense systems.

I would note also, in connection with missile defense, that our military and civilian leaders—the ones who have studied the treaty, who have vast experience with national security and, in fact, experience with nuclear weapons treaties of the past—have stated that neither the language in the preamble referencing any interrelationship between strategic offensive and defensive forces nor this unilateral statement by the Russians places legally binding obligations on the United States.

In fact, that summary of their position appeared in the Wall Street Journal on April 20, 2010. So that is not just a statement by people on this floor, it is cited in the Wall Street Journal.

I think when you step back from this, especially on missile defense, in order to reach the conclusion that some have reached and the determination they have made against the treaty—I guess on missile defense grounds alone—you would have to believe it is a logical conclusion that Secretary Gates doesn't seem to be too concerned about missile defense. But apparently he is, and he has spoken to this. You would have to conclude Admiral Mullen, who has said we should ratify this, hasn't made a determination about missile defense. I think he has and I think that is why we can rely upon that support and certainly the support of the Missile Defense Agency Director, LTG Patrick O'Reilly, someone whose job it is to be concerned about this and someone who has experience with and involvement in what missile defense means and what it means to our security.

So I think there is ample evidence and ample testimony on the record before our committee and otherwise that indicates in no way does this treaty constrain our ability to develop and deploy missile defense.

I know we are short on time, and I will wrap up, and I will have more to say as we go forward. But when you consider the implications for our security that this treaty involves and also think in a larger sense in terms of how people view this debate in Washington, there are a lot of people who are concerned about our economy. They are concerned about their own jobs and concerned about their own family's economic or financial security. That is a chief source of their anxiety. But I think they also worry about our national defense. They are worried about terrorism and they are worried about attacks and they are worried about national security and their own security. We need to give them assurances that at least as it relates to nuclear weapons pointed at the American people, that we are taking a significant step here—a historic step—that will ensure we have both a safe, secure, and effective nuclear arsenal to go at any nation that would cause us harm, but at the same time we are taking steps to reduce nuclear weapons across the world to make us, in fact, safer.

We all believe this. Both sides of the aisle believe this. We want a strong national defense and we want to be safe. What we have to do in the next couple days—after thousands and thousands of questions being asked of and answered

by the administration, after 15 or so hearings just in the Foreign Relations Committee, after months and months of debate, months and months of testimony, after all that—is complete our work. We have to ratify this treaty, give the American people some peace of mind in this holiday season that our defense is strong, that our nuclear arsenal is strong, and that we can come together and ratify a treaty that has been endorsed across the board by experts in national defense, people who care deeply about our security.

Mr. LEAHY. Mr. President, I support the New Strategic Arms Reduction Treaty, also called the New START Treaty. New START, if ratified, will have several major and positive impacts on our national security and on global nonproliferation. I must express my deep disappointment that the Senate has not yet ratified this treaty, and I join my friends Chairman KERRY and Senator LUGAR in appealing to all Senators for their cooperation and support in ratifying this treaty. The New START treaty is the right move for our country and for our world.

New START builds on a long history of strategic nuclear arms treaties between the United States and Russia and Russia's predecessor, the Soviet Union. Beginning with the Strategic Arms Limitation Talks ratified in 1972, we have entered into three strategic arms control treaties with the Soviet Union and Russia. This number does not include START II, which was ratified by the Senate in 1996 but never entered into force due to subsequent treaty mandates from the Russian Duma. The most recent arms control treaty, the Strategic Offensive Reductions Treaty, or SORT, was ratified unanimously in March 2003.

Unfortunately, both the SALT and original START treaties have expired, with START concluding last December. The expiration of these treaties means that the United States presently has no fully implemented arms control treaty governing the nuclear weapons stockpiles of the United States and Russia. This circumstance is dangerous to our national security and needs to be rectified as soon as possible.

I am not alone in holding that position. A bevy of experts have strongly urged support for the New START treaty, from all points on the political spectrum. Every senior leader and expert in the current administration supports the quick ratification of New START, from Secretaries Gates and Clinton to a whole range of uniformed leaders such as Admiral Mullen, the Chairman of the Joint Chiefs; General O'Reilly, the Director of the Missile Defense Agency; and General Klotz, the Commander of the Air Force Global Strike Command. General Klotz is joined by many of his predecessors who commanded the Strategic Command and Strategic Air Command, including General Welch, General Chain, General Butler, Admiral Ellis, General Davis, and more. Former Secretaries of Defense have come out in support of New START, including James Schlesinger, William Perry, Frank Carlucci, and Harold Brown. Former Secretaries of State of both parties are also advocating Senate ratification: Colin Powell, Madeleine Albright, George Shultz, James Baker, and Henry Kissinger. The list of distinguished, trusted and experienced advocates goes on and on, reading like a ''Who's Who'' of the U.S. diplomatic and military communities.

One of the biggest reasons why so many experts are arguing for ratification of this treaty is because it will do a great deal to control Russian nuclear arms and resume verifiable inspections. New START would reduce Russia's deployment of strategic nuclear warheads by about 25 percent. U.S. inspectors have not held an inspection of Russia's nuclear arsenal for a year; New START would resume inspections. Specifically, U.S. inspectors will have 18 annual inspections of Russian delivery vehicles and warheads. No previous treaty has allowed direct U.S. monitoring of Russian warheads for verification purposes. In fact, the close perspective that U.S. inspections would allow under this treaty will eliminate the need to share information about missile flight testing since that information, also called telemetry, was used to determine the number of warheads that a missile carried. New START will let us determine that by counting the warheads themselves, not by evaluating missile flight data. Secretary Gates has confirmed that New START is sufficiently verifiable that the United States could determine if Russia made any attempts to cheat on our break out of the treaty.

Perhaps one of the greatest benefits of New START is its contribution to global nonproliferation, which all of us can agree would be strongly beneficial to our national security interests. The United States will never convince other states to forgo a nuclear program if we do not show our own commitment to ending the nuclear scourge. More importantly, we will not be able to reach agreement with our partners about punitive nonproliferation measures without ratifying New START.

It is difficult to discuss this subject without raising the issue of Iran's nuclear program. Today the international community has put in place deservedly harsh sanctions against Iran's governing regime. These sanctions are so tough that Kenneth Pollack quotes former Iranian President Ayatollah Rafsanjani as calling them ''no joke'' and warning ''that [Iran's] situation is dire.'' These sanctions required patient international cooperation that cannot survive American preventive attacks. And without sanctions we should give up any hope of ending Iran's nuclear program.

Instead, we must continue to isolate Iran by garnering international support for further escalating sanctions. The United States, not Iran, is the indispensable nation, and to gather support for punitive non-proliferation we must lead by example. New START demonstrates our commitment to limiting the threat of nuclear weapons—even those in our own arsenal. And it bolsters our further requests to other countries to squeeze Iran in ways that the ayatollahs cannot tolerate.

Even while New START will renew our leadership in nuclear nonproliferation, the treaty reserves our right to pursue missile defense options and maintain an effective nuclear deterrent. A nuclear weapon in the hands of a terrorist is extremely unlikely to arrive on the tip of a missile. Even so, the most ardent supporters of spending billions more on strategic missile defense must acknowledge that New START's provisions were so well negotiated as to bar limitations on American defensive technologies. Similarly, the treaty will not prevent us from deterring other nuclear powers. New START allows the United States to maintain a highly credible deterrent.

Expansive and unchecked Russian and American nuclear arsenals are dangerous, expensive, and unnecessary. Eliminating the threat of stolen or illegally purchased nuclear weapons must be among the very gravest threats that the United States faces today. New START will help us diminish and contain that threat. At a time when leaders of both parties are seeking ways to cut the budget deficit, our nuclear program seems like an unnecessary and burdensome vestige of the Cold War. It is difficult if not impossible to credibly argue today that the massive nuclear arsenal we built to deter the Soviet Union serves our needs in today's changed world, where terrorism and the support of terrorism loom so large as threats to our security.

The time has come to do the right thing for the right reasons. Both parties should cooperate, as we have in the past, on issues that will make our country safer. No one should doubt that the New START treaty will do exactly that. Especially on an issue so vitally important to our security, and to the security of our children and grandchildren, the American people want and deserve a fair and straightforward debate. Partisan point-scoring should be checked at the door. Let us vote to ratify New START.

Mr. REID. Mr. President, we have done a lot of important work this year. We have reformed our health care system to give families more options and more control. We have brought accountability to Wall Street; and reigned in the reckless behavior that led to the economic crisis. We have given relief to millions of Americans hurting because of the economy. Now, it is time for us to protect the national security of the United States.

First of all I want to say that I was pleased that we were able to move forward and start debate on the treaty today. I hope we can continue to have a process that allows for real discussion and debate.

This treaty is critical to the national security of the United States. We know that one of the greatest security threats America faces is a nuclear weapon in the hands of a terrorist. A nuclear-armed terrorist would not be constrained by doctrines of deterrence or mutually assured destruction but could attack and destroy one of our cities without warning. By ratifying this treaty, we can help stop that tragedy from happening.

This treaty would secure nuclear stockpiles by taking nearly 1,500 U.S. and Russian nuclear weapons—weapons that now sit pointed at cities like Washington and Moscow, Chicago and St. Petersburg—and put them on ice. It has been more than a year since American inspectors were on the ground monitoring the Russian nuclear weapons arsenal. It is critical that we ratify this treaty so we can get that window into exactly what the Russians are, or are not, doing.

This treaty preserves a strong U.S. nuclear arsenal. As treaty negotiations were underway, U.S. Military leaders provided analysis and determined the number of nuclear weapons we needed to retain to keep us safe here at home.

With the United States and Russia controlling over 90 percent of the world's nuclear weapons, we need the stability and transparency this treaty would provide.

We aren't ratifying this treaty because we want to be Russia's best friend. But we do need to work together with Russia to stop the most dangerous nuclear threats from around the world, including Iran and North Korea.

By ratifying the START treaty, we will increase our ability to work with other countries to reduce nuclear weapons around the world and to make sure that those weapons are kept safe and secure.

Given the obvious advantages of this treaty to our national security, I hope we will be able to continue this institution's tradition of bipartisan support for arms control. The START treaty builds on a long history of bipartisan support for treaties which limit the strategic offensive weapons of the United States and Russia.

The Senate, as well, has a long history of broad bipartisan support for these types of treaties.

Continuing that tradition, the Senate Foreign Relations Committee overwhelmingly approved the resolution of ratification of the START treaty with a bipartisan vote of 14 to 4.

The U.S. military leadership unanimously supports the treaty, and Secretary of Defense Robert Gates and Chairman of the Joint Chiefs of Staff Admiral Mullen have spoken in favor of the treaty in their testimony before the Senate.

Secretaries of State from the last five Republican Presidents support the treaty because they know, in their words, the world is safer today because of the decades-long effort to reduce its supply of nuclear weapons.

A wide range of Republican and Democratic national security leaders have come out in support of the treaty, including former President George H.W. Bush, Colin L. Powell, Madeleine K. Albright, LTG Brent Scowcroft, James Schlesinger, Stephen Hadley, Sam Senator Nunn, and Senator JOHN WARNER.

As we enter this historic debate, we want to ensure that all voices are heard. We plan to allow our Republican colleagues the opportunity to express their views and concerns about the treaty and to have a reasonable number of germane and relevant amendments.

Republicans have been included in the process from the beginning—the resolution recommended by the Foreign Relations Committee that we will debate was, at the urging of Senator KERRY, crafted by Senator LUGAR to reflect the views of Republican colleagues, and the Foreign Relations Committee then adopted in its markup two additional Republican amendments.

Senator KYL raised legitimate concerns about the state of the U.S. nuclear weapons complex, and the administration responded with a commitment of $85 billion to upgrade that complex over the next 10 years.

But there is a difference between legitimate policy concerns and those who simply wish to use procedural tricks to keep the treaty moving forward.

We can easily complete this treaty with a reasonable amount of time, as the Senate has in the past. We can continue our institution's long history of bipartisan support for arms control. And we can take 1,500 nuclear weapons off their launchpads and make the future far safer for the children of America and the world.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I think we have had a good opportunity throughout today and yesterday to open some of the issues and give colleagues a sense of what is in the treaty, the resolution of ratification, and how it addresses many of the concerns. My hope is, perhaps, as we go out of executive session and into legislative session for a period of time, it will give some of us an opportunity to sit down and work together to see if we can find some of the clarifications that might resolve some of those issues for people.

Senator LUGAR and I are both prepared to sit with our colleagues and try to do that, and obviously we look forward to being able to get back to begin the process of legislating on whatever understandings, declarations, and clarifications Senators may have. I would ask my colleagues to carefully read the resolution and look at the many places in which rail-mobile missile defense and all these other issues have been addressed by that resolution.

I see the hour of 7 has arrived, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING THE GOVERNMENT

Mr. REID. Mr. President, Members on both sides anticipated my filing cloture tonight on the spending bill that would take us through next year. Everyone knows we are operating under a continuing resolution that expires Saturday night at midnight. Senator INOUYE has worked so very hard for the entire year, working on a bipartisan agreement and in a bipartisan manner, to put together a bill that will responsibly fund the government for the next fiscal year. He has not done this as king. He has done it working with Democrats and Republicans. Senator COCHRAN has been in on all the efforts Senator INOUYE has made. The product was filed a few days ago. The overall spending level was supported by 40 Republicans earlier this year.

In addition, the bill contains priorities for Members, Democrats and Republicans. Although some of my Republican colleagues in recent days have publicly distanced themselves from the idea that Members have a role to play in the appropriations process, all of them did nothing privately to withdraw their priorities from this bill.

I will not take a long time tonight, but I will say a few things about this. It is no surprise because I have said it before. I, like everyone here, support the Constitution of the United States. I don't carry this with me every day but nearly every day. I don't read it every day, but I have a pretty good idea what is in it. One of the things I understand and support is that the Founding Fathers decided we should have a unique form of government, with three separate and equal branches. I believe, as one of the legislators here in the framework of the government set up by the Founding Fathers, that I have a number of responsibilities. One of those responsibilities set forth in that Constitution is to make sure that the executive branch of government does not take power away from us. Three separate, equal branches of government, not three branches of government with one stronger than the other. I think my Republican friends are giving up so much to the executive branch of government in doing away with congressionally directed spending.

It wouldn't matter if George Bush the first, George Bush the second, Jimmy Carter, Ronald Reagan, President Clinton, or Barack Obama were President. I don't like this grab of power. That is what it is. I don't know why people in this branch of government are willing to give that power up.