

five resulted from pleas. The sentences handed down in these five cases have been much shorter than those meted out in Federal court convictions. In contrast, our Federal courts have a long and distinguished history of successfully prosecuting even the most atrocious violent acts, and our judicial system is respected throughout the world.

The vital role of the rule of law and our judicial system in the fight against terrorism is also strongly supported by leaders of our military who served honorably to protect our nation and uphold the Constitution. On December 10, 2010, a group of retired generals and admirals voiced their opposition against restricting law enforcement's ability to try terrorists in Federal criminal courts, and wrote that, "By trying terrorist suspects in civilian courts we deprive them of the warrior status they crave and treat them as the criminals and thugs they are. As long as Guantanamo is open it offers America's enemies a propaganda tool that is being used effectively to recruit others to their cause and undermines U.S. efforts to win support in the communities where our troops most need local cooperation to succeed."

I believe strongly, as all Americans do, that we must do everything we can to prevent terrorism, and we must ensure severe punishment is imposed upon those who do us harm. As a former prosecutor, I have made certain that perpetrators of violent crimes receive serious punishment. I also believe strongly that we can ensure our safety and security, and bring terrorists to justice, in ways that are consistent with our laws and values. Congress should not limit law enforcement's ability to do just that.

Mr. LEVIN. Mr. President, the proud tradition our committee has maintained every year since 1961 continues with the Senate's passage of this, the 49th consecutive national defense authorization bill. We always have to work long and hard to pass this bill, but it is worth every bit of the effort we put into it because it is for our troops and their families as well as, obviously, our Nation. I thank all Senators for their roles in keeping this tradition going.

Our bipartisanship on this committee makes this moment, as late as it is, possible. I am proud to serve with Senator McCain and am grateful for his partnership.

I thank all our committee staff members. With their extraordinary drive and many personal sacrifices to get this bill done—and we had to get it done twice because we had to modify the bill that was originally presented to the Senate, as everybody here knows. Our staff has given another meaning to this season of giving. Led by Rick DeBoges, our committee's staff director, and Joe Bowab, our Republican staff director, they have given everything imaginable, and some things unimaginable, to get this bill passed. So we thank all of them.

I ask that, as a tribute to the professionalism of our staff, and our grati-

tude, their names be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Richard D. DeBoges, Staff Director; Joseph W. Bowab, Republican Staff Director; Adam J. Barker, Professional Staff Member; June M. Borowski, Printing and Documents Clerk; Leah C. Brewer, Nominations and Hearings Clerk; Christian D. Brose, Professional Staff Member; Joseph M. Bryan, Professional Staff Member; Pablo E. Carrillo, Minority Investigative Counsel; Jonathan D. Clark, Counsel; Ilona R. Cohen, Counsel; Christine E. Cowart, Chief Clerk; Madelyn R. Creedon, Counsel; Gabriella E. Fahrer, Counsel; Richard W. Fieldhouse, Professional Staff Member; Creighton Greene, Professional Staff Member; John W. Heath, Jr., Minority Investigative Counsel; Gary J. Howard, Systems Administrator; Paul C. Hutton IV, Professional Staff Member; Jessica L. Kingston, Research Assistant; Jennifer R. Knowles, Staff Assistant.

Michael V. Kostiw, Professional Staff Member; Michael J. Kuiken, Professional Staff Member; Kathleen A. Kulenkampff, Staff Assistant; Mary J. Kyle, Legislative Clerk; Christine G. Lang, Staff Assistant; Gerald J. Leeling, Counsel; Daniel A. Lerner, Professional Staff Member; Peter K. Levine, General Counsel; Gregory R. Lilly, Executive Assistant for the Minority; Hannah I. Lloyd, Staff Assistant; Jason W. Maroney, Counsel; Thomas K. McConnell, Professional Staff Member; William G.P. Monahan, Counsel; Davis M. Morriss, Minority Counsel; Lucian L. Niemeyer, Professional Staff Member; Michael J. Noblet, Professional Staff Member; Christopher J. Paul, Professional Staff Member; Cindy Pearson, Assistant Chief Clerk and Security Manager; Roy F. Phillips, Professional Staff Member; John H. Quirk V, Professional Staff Member.

Robie I. Samanta Roy, Professional Staff Member; Brian F. Sebold, Staff Assistant; Russell L. Shaffer, Counsel; Travis E. Smith, Special Assistant; Jennifer L. Stoker, Security Clerk; William K. Sutey, Professional Staff Member; Diana G. Tabler, Professional Staff Member; Mary Louise Wagner, Professional Staff Member; Richard F. Walsh, Minority Counsel; Breon N. Wells, Staff Assistant; Dana W. White, Professional Staff Member.

Mr. LEVIN. I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### EXECUTIVE SESSION

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

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive ses-

sion to resume consideration of the following treaty, which the clerk will report.

The assistant legislative clerk read as follows:

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms.

Pending:

Corker modified amendment No. 4904, to provide a condition and an additional element of the understanding regarding the effectiveness and viability of the New START Treaty and United States missile defense.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, we currently have two amendments, one of which I believe we will be able to accept and one of which we are working on with the Senator from Arizona to determine whether it would need a vote. We should know shortly. We will begin debate on an amendment of the Senator from Arizona. Subsequently, the Senator from Connecticut, Mr. LIEBERMAN, and the Senator from Tennessee, Mr. CORKER, have an amendment they want to proceed on with respect to missile defense. Those are the only two at this time. We hope to be able to get to final passage on this treaty without delay. The Senator from Arizona assured me they are trying to work through what that means. So I think we will proceed without any attempt to pin that down with a unanimous consent agreement at this point. Obviously, for all Senators, we want to try to do this as soon as is practical.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, would it be in order for me to call up an amendment at this time?

The ACTING PRESIDENT pro tempore. The Senator is recognized for that purpose.

AMENDMENT NO. 4892, AS MODIFIED

Mr. KYL. I call up amendment No. 4892, as modified. The modification is at the desk.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

Mr. KERRY. Mr. President, if we could begin the consideration, as I mentioned, we are working on that language. I do not want to agree to the modification yet until we have had a chance to talk with the Senator about it. I am not saying we will not agree to it. I want to see if we can get that done. If we can begin on the amendment as originally filed, we can interrupt to do it with the modification. I want a chance to clear it.

Mr. KYL. I am not asking at this time there be an agreement. I am simply saying that the amendment I want to bring up is the amendment I filed.

Mr. KERRY. I have no objection to the as modified to consider it.

Mr. KYL. I will describe the modifications. They were made in an effort

to get agreement. If we cannot, that is fine, but I do think it makes it more palatable to Members.

May we have the amendment read.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4892, as modified.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a certification regarding the design and funding of certain facilities)

At the end of subsection (a), add the following:

(1) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request advanced funding, including on a multi-year basis, for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, this amendment has to do with the modernization of our nuclear weapons enterprise. It is a subject with which we began this debate. As we get toward the end of the debate, it remains a piece of unfinished business with which I think we need to deal. Remember, the nuclear enterprise we are talking about consists primarily of the facilities that are used to work on our nuclear weapons, as well as the weapons and importantly the scientists who work in those facilities. They represent our National Laboratories, as well as other production facilities and related facilities.

The point I think is important for people to remember is that unlike all of the other nuclear powers in the world today, the United States does not have an active modernization program for our nuclear deterrent, a program which enables us, for example, to remanufacture a component of a weapon and replace an existing weapon with that.

The need for this has been made very clear by all of the people in the administration who have considered this, including Secretary of Defense Gates. The Secretary, remember, is, in effect, the customer for the Department of Energy, which is the Department responsible for producing these weapons. The budget we talk about is a Department of Energy budget, but it is really to produce weapons for use by the Secretary of Defense.

Here is what he said about the need to modernize the production complex,

which is what we call that group of facilities, as well as the stockpile:

To be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

Each year, our Laboratory Directors and the Secretary of Energy are required to provide a certification to the President that certifies the status of the weapons in the stockpile and makes determinations as to whether those weapons are safe, secure, and reliable without the need for testing.

Each year, as we discussed in our closed session, there are reports about the status of these weapons. I will talk in a moment about the material we discussed in the closed session. But suffice it to say here that there is a great need for us to move with alacrity to bring up to date the weapons that are in our stockpile and that requires modernization of the facilities and related equipment to accomplish that task.

This will require a substantial investment over the next decade. Unfortunately, over the years, these facilities have been allowed to deteriorate, our capacity to atrophy, and our scientists to retire without doing what is necessary to bring these weapons up to date.

The current budget projection, as expressed in the 1251 report update, which was dated November 17, 2010, initiates that modernization but clearly cannot accurately predict future requirements. This is the problem we have dealt with here.

The report acknowledges that we have a problem and can estimate today what we think we can spend over the next few years—say, 5 years—but it is hard to estimate beyond that as to what the exact cost of this is going to be. I try to deal with that in this particular amendment.

The Laboratory Directors responsible for certifying our nuclear weapons recently wrote in a letter:

As we emphasized in our testimonies, implementation of the future vision of the nuclear deterrent . . . will require sustained attention and continued refinement.

In other words, each year they can get their estimates more accurate, as one might expect, and define more specifically what the exact requirements are. In this case, that generally means an increase in costs in one area or another. In fact, Vice President BIDEN, speaking to this precise problem, said:

[W]e expect that funding requirements will increase in future budget years.

We know that is going to happen. The question is, can we be any more particular in the funding that we require. My amendment seeks to be a little bit more precise or a little bit more specific than the current language.

At the crux of this modernization program is a need for a firm commitment for the construction of two critical manufacturing facilities. They are called the Chemistry and Metallurgy Research Replacement, or CMRR, plu-

onium facility—that is at Los Alamos Laboratory—and the Uranium Processing Facility, or UPF at the so-called Y-12 facility at Oak Ridge, TN. Without these, the capacity to perform stockpile maintenance will be lost by 2020 and there will be no capability to modernize our aging stockpile.

For Members to recall briefly, these are, in many cases, facilities that go all the way back to the Manhattan Project, the project that created the atomic weapons that enabled us to conclude World War II. Some of these buildings were built as early as 1942, and they are not in good shape. In fact, when I was with one of my colleagues from Tennessee visiting the Y-12 facility, I asked one of the people responsible for a particular part of the facility what his biggest concern was. He said: My biggest concern is keeping this thing going for another 10 or 12 years. When you see the facility, you can see that. And that is no way to deal with the most sophisticated weapons that mankind has ever invented.

As I said, the current plan is a big improvement over what we had just a year or so ago. We got together with the administration and asked them to relook at the plan they had submitted and identify areas where there were deficiencies in funding or planning. They came back with an updated report that revealed funding requirements that had previously not been dealt with. There was a little over \$4 billion in funding added to the first 5 years of the 10-year program we are looking at as a result.

But even there, there was an argument that there were uncertainties, they were only at a certain point in the planning of these two large facilities, and that those funds would be inadequate.

To note something for our colleagues and of which the Presiding Officer is very well aware, being one of the two Senators responsible for the Los Alamos facilities, he will recall both he and his colleague and others of us, in visiting Los Alamos, were told about the problems of building a facility there where there theoretically could be an earthquake in the near vicinity and the costs of construction have increased dramatically because of the physical needs to protect that facility against any conceivable kind of physical problem. That has increased the cost of the facilities, and they are trying to get a handle on how much they will actually be. They are pretty clear about a ball-park estimate, but a ball-park estimate is not quite good enough for these purposes, as we know.

I will conclude by saying I am a little distressed by the news stories. We cannot expect the news media to have gotten into the detail required to actually make policy. They put it in a political context that the administration put another \$4 billion into the pot and why shouldn't that satisfy people like me.

Of course, that is totally beside the point. We are simply trying to get a better handle on how much money will

be needed and to be able to plan for that funding in a way that gets it to the facilities in the most expeditious way possible so that, A, we can complete the work that has to be done in time and, B, that will save a lot of money, about \$200 million a year.

There is every reason to want to understand how much it will cost and get it done quickly. It is not about adding \$4 billion. That does not begin to cover the cost of these items.

It is not a matter of some kind of negotiation that additional money was thrown in the pot and is that not good enough. It is a matter of continuing to focus as the cost of these facilities evolves and as the requirements evolve, so that Congress, with the administration's request in its budgets, can provide the funding that is necessary when it is necessary to get these facilities completed as quickly as possible in order to achieve our modernization goals.

There is no dispute about the fact that there will be additional money required. It is just a question of what to do about it.

The updated budget, while committing additional funds to repairing these facilities, will not be able to eliminate even over 10 years, for example, the more than \$2 billion of documented maintenance issues. There are some things that are simply outside the budget and need to be dealt with.

My biggest concern in the updated modernization plan is actually that it added to the delays. What we should be doing is trying to telescope these projects as much as possible so we can meet the deadlines for the refurbishing of our weapons—or maintenance of our weapons, I should say—rather than extending the time for the completion of the facilities. But unfortunately, that is what the latest report did. Instead of accelerating construction of these two most critical facilities, the CMRR and the UPF, the updated plan now delays completion to 2023 and 2024, respectively, rather than 2020.

As we recall from the executive session we had a couple of days ago, there was information presented as to why these facilities absolutely needed to be completed by 2020 in order to accomplish the life extension projects for some of our weapons.

Delay in these facilities will hamper efforts to perform these critical life extensions of our warheads and not in consequentially add significant costs, again, primarily to keep these aging facilities operational.

As an example, we have to put a brandnew roof on the facility at Los Alamos even though the facility in 10 or 12 years is no longer going to be used because it will be replaced. But the roof is so bad that the work we have to do in there is affected by the weather, and so we have to build a roof. That is an expenditure one hates to make because in 10 or 12 years that building is not going to be used anymore. But that is the state of repair we are in.

Each year of delay adds to those kinds of maintenance costs. Senator CORKER and I and Senator ALEXANDER were told at the Y-12 facility that it is about a \$200-million-a-year cost to keep these aging facilities going that we can eliminate if we can complete the construction of these two large facilities.

One-fourth of the newest increase of this \$4.1 billion, of which I spoke, for the next 4 years does not even go to the buildings or the facility. It simply meets an obligation for unfunded pensions that have been allowed to accumulate over the years. The only good news about that is, I guess, they would probably have stolen the money from one of the accounts that directly deals with the modernization of our weapons in order to meet those unfunded pension obligations. So I am glad we were able to put the billion dollars in there. But when they talk about \$4 billion more for science work on these weapons, that is not true. Fully one-fourth of it goes to meet these unfunded pension obligations.

There is a need for things outside the science, but clearly the science requirements are the key ones we are trying to get money to as much as we can.

The key point also is that the modernization is independent of the ratification of the treaty. It is true that as we reduce the number of warheads, there is even more of a requirement that we know the warheads we have will do their job because we do not have a backup warhead sitting in a storeroom, basically in the event something does not work if that is deployed right now. It is true that as we reduce the number, we have to pay even more attention to whether they are all safe, secure, and reliable. But it is also a fact that the modernization is independent of the ratification of the treaty.

During the hearings that were conducted on this treaty, all 16 experts who provided testimony spoke of the requirement for modernization. Many indicated it is a requirement irrespective of START. That is a point that has been made by others as well.

For example, former Energy Secretary Spencer Abraham in an op-ed recently said:

The Obama administration's decision to support increased investment in the maintenance of our nuclear weapons lab and stockpile is correct and long overdue . . . But the fact that the administration has revised its policy for the better is in itself no reason for any Senator to endorse START . . . The START treaty and beefed up funding for our nuclear enterprise are two separate issues that should remain distinct.

The point was also made by the person responsible for this modernization program—Deputy NNSA Administrator Tom D'Agostino. He said: "Our plans for investment in and modernization of the modern security enterprise are essential, irrespective of whether or not the START treaty is ratified."

So this has to be done whether the treaty is ratified or not, and I think everybody acknowledges that fact.

So we believe the resolution of ratification needs to address these issues by providing a couple conditions, and we have modified the original language in order to try to get an agreement. If we can't, we will vote on it and see what happens, but I am hoping my colleagues will agree.

The first is something I know has been agreed to; that is, a condition the President will provide an annual update of the section 1251 report.

The administration is agreeable to this, and it is the way for Congress to be annually advised of the status of this construction, the status of the facilities, and what more may need to be done on that. Presumably, that will be provided at or about the time the budget is sent to Congress from the administration.

Secondly, a condition the President will certify, prior to entry into force of the treaty, that the President intends—so this is not a requirement that he has achieved a particular result, but he intends to accelerate the design and engineering phase, to the extent possible, of the CMRR and UPF.

In other words, we are not asking the impossible be done, just that to the extent we can possibly do it, we accelerate the design and engineering of these two facilities so they can get done on time, rather than with the delays.

Third, that the administration—or the President—request advance funding, including on a multiyear basis, for these two facilities—the CMRR and the UPF—upon completion of the design and engineering phase of the planning.

What that means is, we are not asking them to provide advance funding for the entire projects, as is done, for example, when we construct an aircraft carrier. We are not asking it be done now, when there are still some uncertainties about exactly what these facilities need and how much they will cost. Los Alamos is still being tweaked, among other things, as I said, because of the need to make it earthquake-proof. What we are saying is, upon completion of the design and engineering phase of planning, then the administration requests advance funding and on a multiyear basis.

What that means is—and this is frequently done with large Defense Department contracts, in order to get them done as quickly as possible and as inexpensively as possible—there are multiyear advances of funding so the money can be spent, let us just say hypothetically, within a 5-year period by the Defense Department for an aircraft carrier, for example. Instead of having the Appropriations committees each year appropriate a particular amount of money, and the work that is done can only be done within the constraints of that particular amount of money appropriated in that particular year, what they say is—and I am just

speaking hypothetically—the cost is, let's say, \$4 billion, and we know it is going to take about 4 years to do this. Instead of saying: Well, we are going to do \$1 billion of appropriations each year, what they say is: All right. You have \$4 billion, and if you can get it done more quickly by spending this money more quickly, fine. That will save us money and it will get the project done quicker. If you can't, then you can't. But that money is set aside in an account for that purpose.

That is all we are asking be done here too. These two facilities are both, in terms of order of magnitude, about \$5 billion facilities. They might be a little less. They are likely to be a little more—potentially, in the neighborhood of \$6 billion or so. Originally, when the administration presented its first 1251 report, the entire 10-year program was set at \$10 billion. We knew that wasn't adequate. We went to the administration, they recalculated everything, brought their estimates up to date, and said: That is right, \$10 billion is not going to be enough. We will add another \$4 billion to \$6 billion over the first 4 to 6 years.

Undoubtedly, the cost will increase above that, as has been testified to. My guess is, just in terms of order of magnitude, you are looking at roughly \$20 billion over 10 to 12 years. We will know more each year this goes forward. But to construct these two facilities, if we could advance fund at least some money—let's say, 3 years' worth of the money—then it will be possible for the people who are responsible for the construction of those facilities, if they can get 15 months of work out of the first 12 months and spend more than 12 months' worth of money to get that done, that is great. They will have been able to accomplish their job more quickly. Each month that goes by adds costs to the program. So if we can provide them advance funding of some amount—we are not specifying it in here—they can probably get the project done more quickly and less expensively, and that should be a good thing. I think everybody agrees this would be the way to do it.

There have been two objections posited, to my knowledge. First, the Department of Energy has never done it this way. That, of course, is not the way for us to set policy. I saw my colleague on television this morning saying what we need is a plan. We are too focused always on what is right in front of our face. A lot of times, if we have a basic plan everybody knows we are trying to work toward, it is amazing how much you can accomplish in terms of the details. Well, this is the basic plan.

The Department of Defense does this every year because they have large-cost construction projects. The Department of Energy has never done it that way—except I am not sure that is true. Before there was a Department of Energy, the Manhattan Project was being built, and GEN Leslie Groves, who is

sort of the father of the Manhattan Project, didn't have any problem at all about advance funding. He went to the President and the Congress and said: I need this money. They said: What do you need it for? He said: Don't ask questions, it is secret, and he got the money. That is an oversimplification, but he got that project done in less time than anybody could have possibly imagined because he had the resources provided to him to get it done.

So when they say it has never been done before, well, actually, it has been done before on this exact—on this exact—national defense item; namely, our nuclear enterprise. It is just that it was back in the early 1940s when people were not so, I guess, concerned about each year's budget and the appropriations that would accompany those budgets.

Secondly, the argument is made that—and this one may surprise folks—well, if we have, let's say, 3 years' worth of funding out there and that money is provided to the Department of Energy, the Members of Congress who are on the Appropriations Committee will grab that money—or parts of it that are unspent—and apply it to other things.

Think about that for a minute. The very people responsible for funding these projects in the Congress, who know they have to be done and who have agreed to the advanced funding in the first place, I think are highly unlikely, after that money has been provided, to say: Well, we need money for some water projects or something so we will go grab some of that money that isn't spent. The whole reason it isn't spent is because you have provided multiyear funding for the project for efficiency purposes. So I don't think that is a reason for us to not advance funds.

I would like to call to my colleagues' attention—and I will let my colleague, Senator CORKER, put this in the RECORD because I think either he or Senator ALEXANDER might talk about it—a letter signed by Senators INOUE, FEINSTEIN, COCHRAN, and ALEXANDER, who presumably, in the next Congress, will be the chairmen and ranking members of the full committee and subcommittees responsible for this funding. This letter makes it clear they are committed to the full funding of the modernization of our nuclear weapons arsenal and that they are asking the President to submit budgets which will provide for the necessary funding for this and they commit themselves to support that funding.

That is important, and I don't think we can attribute a motive to Senators like this, who we all know are entirely trustworthy, that somehow after this money is advance funded, that Congress or appropriators are going to reach back and grab money they have already provided because they think there is another purpose they want to spend it for right now. So those are the reasons why I don't think that is a

principled argument for why we shouldn't do this. Having this advance funding could complete these facilities on time, rather than with a 2- or 3-year delay, and we could save literally hundreds of millions of dollars.

Mr. President, I ask unanimous consent to have printed in the RECORD some additional quotations on the need for modernization from former laboratory Directors, an Under Secretary of Defense, the current Secretary of Defense, the former Secretary of State, Henry Kissinger, and there are many more we could produce.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### ADDITIONAL QUOTES ON MODERNIZATION

Former laboratory directors: "However, we believe there are serious shortfalls in stockpile surveillance activities, personnel, infrastructure, and the basic sciences necessary to recover from the successive budget reductions of the last five years."<sup>7</sup>

Secretary Kissinger: "As part of a number of recommendations, my colleagues, Bill Perry, George Shultz, Sam Nunn, and I have called for significant investments in a repaired and modernized nuclear weapons infrastructure and added resources for the three national laboratories."<sup>8</sup>

Under Secretary Joseph: "New START must be assessed in the context of a robust commitment to maintain the necessary nuclear offensive capabilities required to meet today's threats and those that may emerge. . . This is a long-term commitment, not a one-year budget bump-up."<sup>9</sup>

Secretary Gates: "This calls for a reinvigoration of our nuclear weapons complex that is our infrastructure and our science technology and engineering base. And I might just add, I've been up here for the last four springs trying to get money for this and this is the first time I think I've got a fair shot of actually getting money for our nuclear arsenal."<sup>10</sup>

#### ENDNOTES

<sup>7</sup>Harold Agnew et al., Letter from 10 Former National Laboratory Directors to Secretary of Defense Robert Gates and Secretary of Energy Steven Chu. May 19, 2010.

<sup>8</sup>Secretary Henry Kissinger, Testimony to the Senate Foreign Relations Committee. May 25, 2010.

<sup>9</sup>Under Secretary Robert Joseph, Testimony to the Senate Foreign Relations Committee. June 24, 2010.

<sup>10</sup>Secretary Robert Gates, Testimony to the Senate Armed Services Committee. June 17, 2010.

Mr. KYL. I thank the Chair, and I will have more to say, but I will let other Senators speak.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, as I did yesterday on the floor, I wish to say I cannot thank, and I hope the Senate will feel the same way—I think our country will when they understand what Senator KYL has done—I cannot thank him enough for his thoughtful, dogged, persistent efforts as it relates to modernizing our nuclear arsenal. As a matter of fact, the Presiding Officer and I accompanied Senator KYL on a bipartisan trip to Sandia and Los Alamos to look at some of the many needs we have throughout our complex in our country, which resides at seven facilities across the country. It is that foresight that Senator KYL has displayed,

beginning years ago but especially focused over this last year, that I think has led to incredible results.

While the Senator and I are obviously going to end up in different places, it appears, on this treaty—and there is no question the treaty and modernization are two very different things—there is no question in my mind that we would not have the modernization commitments we have in hand today if it were not for the treaty. So, for me, it is this whole body of work that works together, and in my opinion makes this decision one that is very easy to make because of the entire body of work.

I wish to say that Senator KYL, through his efforts, has caused there to be two updates to what is called the Defense authorization 1251. That is something that is required by our Defense authorization bill. It focuses on expenditures to our nuclear arsenal.

I think people will realize, over the next decade, as a result of Senator KYL's efforts—and Senator KERRY's cooperation and the appropriators and the President and others—that \$86 billion will be invested in modernizing our nuclear arsenal, and \$100 billion will be invested in those delivery vehicles that relate to our warheads. I think people realize that while we are talking about 1,550 warheads being our deployed limit, we have 3,500 other warheads that are stockpiled all across our country and those also need to be modernized. We need to know they are available.

I think the Presiding Officer and I were able to see where neutron generators were going to expire, where the guidance system that guides many of our missiles is far less sophisticated than the cell phones we have today. In some cases, they still had tubes, such as we had in our old black-and-white televisions.

So I wish to thank the Senator from Arizona for everything he has done to cause there to be focus on this and for the fact he has caused it to be dovetailed; the fact we have an updated 1251 that reflects the needs of our country; the fact that we have four appropriators who now have committed to the President they will support this effort; the fact the President has said to them—and all this has been entered into the Record—that he will ask for these moneys to modernize our nuclear arsenal.

So, again, Senator KYL has done incredible work in this regard. I think he has informed this body, and I think it is due to his efforts and those of us who have supported his efforts that have helped to find gaps in our modernization program. We have been able to talk to the head of the NNSA and the Lab Directors to focus on those gaps.

The senior Senator from Tennessee has helped tremendously in that regard. He and Senator KYL and Senator LUGAR have actually gone through other sites—sites I did not go through with Senator KYL myself. So this has

been a collective effort led by Senator KYL.

Again, I know we will end up in a different place on the treaty as a whole, but it is my hope that the administration and Senator KERRY will accept the changes Senator KYL has put forth in his amendment. It is my hope that by unanimous consent we can add this to the treaty. Even if that does not occur, there is no question that the contributions of Senator KYL to the commitments that are so important to ensuring our country is safe and secure by virtue of having a reliable, safe, dependable, nuclear arsenal not only will be evident today, but they will be evident for generations to come. For that, I thank him deeply.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I came to the floor to express my admiration for the Senator from Arizona. I was listening to his address and I heard my colleague from Tennessee.

Senator KYL's work on nuclear modernization is no surprise to any of us who know him very well because his approach to issues is a principled one, and once he determines the principle, he is dogged. He is a determined person. He basically took this issue of nuclear modernization, which is not on the lips of very many people in the United States—the question of whether our nuclear weapons are safe and reliable, whether they will work—he pulled it out of a trash bin and put it on the front page of a national debate.

He did it in connection with the START treaty, but as he said in his own remarks, this should be done whether you are for the START treaty or against the START treaty. It is completely independent, in that sense.

In my view, under no circumstances should the START treaty be ratified without doing this. That would be like reducing our weapons and leaving us with a collection of wet matches. We need to make sure what we have left works. But this is sort of the showhorse/workhorse Senator distinction. This is an issue on the back burner. It is an unpleasant issue. No one likes to talk about making nuclear weapons, each one of which could be 30 times as powerful as the bomb that was dropped on Hiroshima and ended the war, but it is a part of the reality in the United States and in the world today.

As Senator CORKER was saying and as Senator KYL said when each of us visited in different times, different places—Senator KYL came to Tennessee. I was with him there. He has talked to many more people than I have on this subject—these weapons are being modernized in facilities that are completely outdated. It would be as if we were making Corvettes in a Model T factory.

Worse than that, it is not just an inconvenience to the workers there, it is

a threat to their safety, and it is a waste of taxpayers' money. As the Senator from Arizona said, after a certain number of years—I am not sure of the exact number anymore, maybe 15 years, some number of years—this pays for itself. The modernization of these facilities, the bringing them up to date, means the taxpayers will pay just as much to operate these old facilities as they would to spend \$5 billion or \$6 billion or whatever it is to improve these two big new facilities and the other infrastructure and the other things we need to do.

It ought to be said as well that not one of these facilities is in Arizona. This is not home cooking by JON KYL. This is a man who, for a couple decades, has made our nuclear posture his business and has made sure he knows as much about it as anyone and has made sure the rest of us paid attention to it when we might be more interested in the issue of the moment. So it is an example of a Senator doing his job very well. I am deeply grateful for that and I am proud to serve in the Senate with such a person.

I would like to mention the letters I had printed in the RECORD yesterday. They are such an integral part of the remarks of Senator KYL and Senator CORKER—the letter to the President of December 16, from Senators INOUE and COCHRAN, the ranking members of the Appropriations Committee on both sides of the aisle, and Senator FEINSTEIN and I, who are both members of the appropriate subcommittee for dealing with this, as well as the President's response of December 20.

In concluding my remarks, I would like to also congratulate Senator KYL for his comments about advanced funding. We want to do things in an orderly way in government, but it makes no sense for us to build buildings in the most expensive way, particularly when there is an urgent deadline that is in the national interest. So if indeed by building these buildings more rapidly and saving the annual maintenance costs we could save the taxpayers hundreds of millions of dollars at a time when we are borrowing 42 cents out of every \$1 and every one of us is going to be looking for ways to save money, Senator KYL's suggestion about advanced funding, which may not be the way the Department of Energy has done it before, ought to be the way we do it now. We didn't used to have a big dip like we do now. Let's look for ways to save hundreds of millions of dollars. We know we are going to have to modernize these weapons, START treaty or no START treaty, as the Senator said. We know we are going to have to save money. Let's accept the Senator's suggestion about advanced funding of these large facilities. As one member of the appropriations committee, I am going to do my best to follow his suggestion.

I am here to congratulate him for a superior, statesmanlike piece of work, both on the treaty which he has

worked to improve but also on the nuclear modernization issue which he single-handedly has put upfront before those of us in the Senate and the American people and it makes our country safer and more secure.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I wish to thank both my colleagues from Tennessee for their very kind remarks. Actually, the place we have gotten, what we have achieved, is due to the efforts of a lot of people. It starts with Secretary Gates in the Department of Defense; Secretary Chu; Tom D'Agostino; his Deputy Director of NNSA, Don Cook; the Lab Directors who are incredible public servants. We visited with them. These are some of the brightest people in the country and the folks who work with them, many of whom, almost all of whom are about ready to retire, those people who actually designed and developed the weapons we now have. There are a lot of people who devoted their lives to what very few people know or understand. They are now being asked to do a very difficult and complicated job in very difficult surroundings.

Part of what we are asking for—it is not just a matter of convenience, as Senator ALEXANDER said, it is a matter of absolute necessity that these facilities be capable of dealing with these complex weapons. That is why they are expensive, but they are absolutely needed. I thank both my colleagues for having devoted a lot of their own time and attention to this issue and in supporting the efforts of modernization so we can get this job done properly. I appreciate their remarks.

I also would like to proffer a unanimous consent request. I ask unanimous consent to yield 1 hour of the time allocated to the Republican leader postcloture to Senator KYL.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. KYL. I thank my colleagues.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I do want to rise in support of the Kyl amendment No. 4892 and echo the sentiments expressed by my colleague from Tennessee about the good work of the Senator from Arizona. He has been a tireless advocate for modernization. It is something that needed to happen, irrespective of whether there was a treaty, but it certainly became a condition in order to have a treaty. If you are talking about reducing the number of your nuclear weapons, you certainly want to improve the quality of the ones you have.

Unlike other nuclear powers, the United States has not had an active modernization program for our nuclear deterrent.

We have heard from people who recognize the importance of modernizing our nuclear deterrent. I will not reit-

erate all of those, but I wish to point out, Secretary Gates said recently—he couldn't be any more clear that nuclear modernization is a prerequisite to nuclear reductions when he said:

To be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the numbers of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

Similarly, Thomas D'Agostino, the head of the National Security Administration or NNSA said nuclear modernization is a prerequisite to nuclear reductions, stating: “. . . as our stockpile gets smaller, it becomes increasingly important that our remaining forces are safe, secure and effective.”

In the same speech I just quoted from by Secretary Gates, he pointed out: “Currently, the United States is the only declared nuclear power that is neither modernizing its nuclear arsenal nor has the capability to produce a new nuclear warhead.”

It is difficult to overstate the dire condition of the U.S. nuclear weapons complex. Its physical infrastructure is crumbling and its intellectual edifice is aging. The Strategic Posture Commission, chaired by William Perry and James Schlesinger, found that certain facilities of the nuclear weapons complex are “genuinely decrepit” and the complex’s “intellectual infrastructure . . . is in serious trouble.”

I met with experts throughout the Senate's consideration of New START, and they confirm for me the accuracy of these descriptions. I might say to the Presiding Officer, whose State is home to Los Alamos and Sandia National Laboratories, we were able to visit those along with Senator KYL, the Senator from Tennessee and others, and had an opportunity to observe some of the facilities and buildings which are referenced in this amendment. It is absolutely clear, beyond the shadow of a doubt, that we have to make the necessary upgrades and improvements if we intend to keep our nuclear arsenal modern and prepared to deal with the threats we might face in the future.

The idea that the modernization of the U.S. nuclear complex and delivery force is an absolute prerequisite for nuclear reductions envisioned in New START has been clear to the Obama administration throughout the New START process. In fact, in December of 2009, 41 Senators wrote to the President and said in that letter:

Funding for such a modernization program beginning in earnest in your 2011 budget is needed as the United States considers the further nuclear weapons reductions proposed in the START follow-on negotiations.

Just to be clear, what is modernization? This includes improvements to the physical elements of the nuclear weapons complex. It involves the warheads and delivery vehicles themselves as well as facility infrastructure. Modernization also requires maintenance of the intellectual capacity and capabili-

ties underlying that complex; namely, the designer and technical workforce.

The amendment, as proposed by Senator KYL, makes clear in the resolution of ratification how critical modernization is to the United States while it is reducing its nuclear arsenal. First, the amendment places a condition in the resolution of ratification requiring the President to submit an annual update to the section 1251 report. The 1251 report is something annually that comes up here that gives us an update on the nuclear weapons arsenal. Now we will have, thanks to the amendment adopted earlier, a certification with regard to the necessary investment in delivery vehicle modernization, which is an issue I addressed in an amendment earlier in this debate and a critically important one. The Senator has already addressed that in a previous amendment that was accepted by the proponents of the treaty. That was an important step forward.

This particular amendment deals with the facilities and is also critically important. What it will do is require, in the 1251 report, that the President, when he submits his 10-year plan with budget estimates for modernization of the U.S. nuclear complex, that he also presents an accelerated design and engineering plan for the nuclear facilities and a commitment to funding those.

So this amendment, such as the one that would call for modernization of the delivery vehicles, is a critical part of the nuclear complex we have, of making sure it is reliable, that it works, and that it is ready and prepared for whatever challenge may face us in the future. As I said earlier, there are many of the experts, and you talk to the Lab Directors themselves, who recognize the importance of making the investments that need to be made in this if we are going to keep that nuclear arsenal ready.

I wish to read one other quote again. Deputy Administrator D'Agostino said:

Our plans for investment in and modernization of the modern security enterprise are essential, irrespective of whether or not the START treaty is ratified.

I suspect before all is said and done, the START treaty will be ratified. But in any event, this process needed to be undertaken irrespective of whether there is a treaty because it is that important to the future of our country and our national security.

Again, if I might point out, very briefly, what this amendment does, the resolution of ratification must clearly call for a condition that the President will provide an annual update to the section 1251 report in that as a condition the President will certify prior to entry into force of the treaty that he intends to accelerate the design and engineering phase of the chemical facility and the uranium processing facility, request full funding for both of those facilities upon completion of the design and engineering phase of the plan, and an understanding that failure to fund the modernization plan would

constitute a basis for withdrawal from the START treaty.

This is, again, a fairly straightforward amendment. The Senator from Arizona has done, as has already been noted, a superb job of putting on the radar screen of all Members of the Senate the essential and critical nature of getting this issue of modernization addressed. He deserves great credit for doing that. I appreciate the work of the Senator from Massachusetts in cooperating with him in this treaty process to have these amendments and this language accepted because it is essential.

I think it will make not only this treaty stronger, but it will also make the nuclear complex that much stronger. And that, of course, is absolutely essential when it comes to America's national security interests.

So I support the amendment of the Senator from Arizona. I hope it will be accepted and adopted in the resolution of ratification, and that before this treaty is adopted this essential issue will be not only addressed, as it is in the underlying treaty, but addressed—that language even strengthened and made more durable by these amendments.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY.) The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I yield my hour of postclosure time to Senator KERRY.

The PRESIDING OFFICER. The Senator has that right. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from New Mexico very much. I do not intend to use that much time, but we will see what develops here.

Let me speak quickly to this amendment. I want to begin by saying everyone in this Senate is respectful of how hard the Senator from Arizona has worked to bring attention, appropriate attention, to the effort to keep up our nuclear deterrent. He has pushed to correct what this administration saw as too many years of neglect for the work of the nuclear weapons complex. I am glad to say this administration has not only heard him, but many other Members of the Senate, from both sides of the aisle, have joined in this effort to call attention to the modernization needs of our nuclear deterrent.

The administration has appropriately pushed hard for an unprecedented level of funding for this work. In these difficult budgetary times, I do not think anybody here would argue that moving a 10-year budget from \$70 billion to over \$85 billion, which they have done, what President Obama has done, shows an extraordinary commitment to this enterprise by this administration.

That is why the three directors of the nuclear laboratories told Senator LUGAR and me, "The proposed budgets provide adequate support to sustain the safety, security, reliability and effectiveness of America's nuclear deter-

rent within the limit of 1,550 deployed strategic warheads established by the New START treaty, with adequate confidence and acceptable risk."

That is also why Tom D'Agostino, the head of the National Nuclear Security Administration, could say a few days ago, "Having been appointed to my position by President George W. Bush, and reappointed by President Barack Obama, I can say with certainty that our nuclear infrastructure has never received the level of support that we have today."

Given all that has happened in the past year, all that has been certified and pledged, and all that we know the administration absolutely plans to do, it is hard to understand why anyone has a question about the nuclear stockpile provision at this point in time.

This particular amendment, unnecessary therefore in the light of what I have just said, does not present fundamental problems in terms of the words "to the extent possible we should accelerate." That is exactly what they are doing. They are accelerating, to the extent possible.

But paragraph B presents a number of different issues. Most importantly, the amendment itself requires that the treaty not go into force until all of the these additional certifications are made. The administration has made it crystal clear that it is committed to funding these facilities. If you read the update section of the 1251 report that the administration provided, at Senator KYL's request, and they provided that in November, here is what they say: The administration is committed to fully fund the construction of the uranium processing facility and the chemistry-metallurgy research replacement, and is doing so in a manner that does not redirect funding from the core mission of managing the stockpile and sustaining the science, technology, and engineering foundation.

So before we come to this moment, Senators were concerned about whether the administration was committed to the facilities. Then the administration made it very clear they are committed. The President made that commitment as clear as could be in 1251. Now the concern is, they are not building the facilities fast enough.

Well, that runs completely contrary to what the people designing it think is happening and want to do. And, incidentally, if you put additional funding into hiring additional people, by the time you find them and get them, and they are qualified and they come, they are going to be finished with the job of the additional design and early construction planning.

If this were a post office we were trying to think about building, maybe you could be a little more sanguine about saying, go ahead and accelerate it. But we are talking about multibillion-dollar, complicated facilities that require very significant, sensitive, difficult substances management. They are going to take a certain number of

years to build. That is a reality. That is how complex and challenging the task is.

The early cost and design estimates are that the uranium facility is going to cost somewhere between \$4 billion and \$6 billion, and the plutonium facility is going to cost about the same. So we all remember the old saying around here, we have got a lot of Senators who are talking about waste in the process of governance. The last thing we want to do in this budget, in my judgment, is create an environment of haste that does not measure properly what we are doing. We ought to listen to the experts on this a little bit, the people who are doing the design and the engineering, who tell us it is no simple matter in the world of nuclear weapons production. It involves hundreds of scientists and engineers working on every single aspect of the plant, in order to make sure it is going to work, that it is going to be secure, and it is going to be as safe as humanly possible.

You cannot just throw money at an ongoing design and engineering effort and then automatically expect it can accelerate beyond an already significant increase. We have gone up \$15 billion. If you hire a whole bunch of engineers who are new to the project, they do not know what they are doing yet. That is a recipe for both inefficiency and possibly even the increase of design risks or other kinds of issues.

The truth is, if you cram all of these billions into a very short fiscal period, in addition to that, as this amendment seeks to try to force, you could unnecessarily create competition within other nuclear weapons activities, such as the ongoing warhead life extension programs, and our critical warhead surveillance efforts.

The bottom line here is there is a place and a way to do this. We have an authorizing committee. The Armed Services Committee is the committee that ought to be doing this, not some amendment that comes in attached to the treaty, and linking the treaty going into force to all of these other things being certified.

I think the Appropriations Committee, as well as the Armed Services Committee, would powerfully endorse that notion here on the floor at this point in time. We can compel the President to ask for upfront funding. But that does not guarantee that the President is necessarily going to receive it. And this links it to the notion he can certify that he has.

So I agree with my colleague, the last administration took way too long to focus on this issue, and Senator KYL has done an important service to the Senate, to the country, and to this process, to help to focus on it. But it makes no sense to use a resolution on a treaty to lock the President into doing something he cannot necessarily do because of the Congress and other things that are tied to it.

I reserve the balance of my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ALEXANDER. I ask unanimous consent to have 4 or 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. I listened to Senator KERRY's remarks just now. This is an excellent discussion. Not only do I applaud Senator KYL for resurrecting the whole focus on nuclear modernization, I applaud the President for the updated report that was received on November 17. A lot of work was done. This is a lot of money to say we want to make sure these nuclear weapons work and we are going to spend \$85 billion over 10 years.

The intent of Senator KYL's amendment, though, is not to tie the President's hands, it is to give him more options. I think it is to encourage this big, slow-moving government not to waste the money but to save money. The language says: The President shall certify to the Senate the President intends to accelerate, to the extent possible, the design and engineering phase.

At the Oak Ridge facilities, which Senator KYL visited, he was told that the savings annually to taxpayers of having the new facility versus the old facility are in excess of \$200 million. So every year we do it, every year this is completed, the taxpayers save \$200 million. So if the President and the Appropriations Committee should decide that a 2-year or 3-year advanced funding will save \$200 million a year at a time when we are all dedicated to trying to save money, we should do that.

You might say, well, why do we need to say this in the Senate? The answer is, we have never done it before. And the U.S. Government, if you have never done it before, takes a little nudge to pay attention to it.

So Senator KYL has made an amendment, and if I understand it correctly, Senator KERRY amended the amendment a little bit to make it softer, to say, the President intends to accelerate, to the extent possible. So this is suggesting to the Department of Energy, which has never done it this way before, that we think it is a good idea, if it is practical, and if it saves money.

There is also the matter of getting it done on time. Senator KYL talked about that, the dates we talked about in the executive session. So I would argue to my colleagues that the Kyl amendment is respectful of the President's prerogatives, which he ought to have. He is the manager of the government. He is the Commander in Chief. But it says: If we can think of a way to do this in a way that saves \$200 million a year, year after year after year, why should we not do it?

I will bet during the next session of Congress, if we do our job properly in this body, we are going to be competing with each other to find ways to save \$10 million a year, \$20 million a year, \$100 million a year, because of the

incredible deficit. We have got bipartisan concern about that deficit. We had two Democratic Senators and three Republican Senators support the debt commission.

I would suggest to my friend from Massachusetts it is not possible that you have modified the Kyl amendment to the extent it ought to be accepted, so that the President can get a signal from the Senate that if he thinks he can do this, to the extent possible, that accelerating the building of these big facilities by 2 or 3 years, if it would save \$400, \$500, \$600 million, that we want to encourage him to do that. That is my only thought.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator very much for his participation and contribution to this effort. I am trying to work to see if—as I have said, there are certain components of this that make it difficult to accept, that multiyear piece and so forth.

But the notion of reaffirming the commitment the President has made is not difficult to make. From our judgment, the President has really addressed this as significantly as one can by putting the \$85 billion there, by making it clear they are moving forward, they are going to fully fund it, and by helping the Appropriations Committee members to provide the letter which speaks to their good faith going forward. All of those steps have taken place.

We just don't want to get into a situation where we are creating another hurdle to get over before the treaty goes into effect. If we could find a way as a declaration or some way to reframe this condition—I am working with the administration to see if we can do that—we would be happy to try to restate it.

Mr. ALEXANDER. I thank the Senator. No one is doubting the President's commitment. He has made an extraordinary commitment. I congratulate him for that. It is just the suggestion of doing it a little differently, if the President thinks it is practical, because it might save \$200 million a year, year after year after year. A suggestion from us like that could make the difference in those savings. I thank the Senator for working in that spirit.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. I ask unanimous consent to speak for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CASEY. Mr. President, as we continue to work through the amendments, I rise to outline what is at stake in the debate and describe what the world would be like without the New START treaty accord.

Every Senator here took an oath to support and defend the Constitution against all enemies foreign and domes-

tic. We have an obligation to support a strong national defense.

First, a world without New START is one in which more nuclear missiles are pointed at Americans. This treaty reduces that number.

A world without a New START accord is one in which we have no nuclear inspectors on the ground in Russia. These inspectors have more than a decade of experience inspecting Russian nuclear sites. They were involved in the negotiation process to ensure that there are strong inspection provisions in the treaty. But without New START, these inspectors would not be able to return to work. Furthermore, without onsite inspections, our intelligence services will still be required to collect information on Russia's nuclear weapons infrastructure.

On December 20 of this year, ADM Mike Mullen, Chairman of the Joint Chiefs of Staff, wrote to the Senate:

An extended delay in ratification may eventually force an inordinate and unwise shift in scarce resources from other high priority requirements to maintain adequate awareness of Russian nuclear forces.

In a world without New START, our intelligence capabilities will be stretched, which could give the enemies of our troops on the ground an advantage. We cannot allow that to happen.

These are just some of the direct effects. What about some of the indirect effects of a world without New START? The cascade effect on U.S. national security interests without New START is substantial.

A world without New START is one in which the Russians are less likely to provide land and air access to supply U.S. troops in Afghanistan. The Northern Distribution Network is a crucial supply route for our troops in Afghanistan. This means that just as we have reached full troop strength in Afghanistan, supply lines would become increasingly strained. Today, supply routes through Pakistan are increasingly dangerous. Just the other day, two fuel tankers meant to supply our troops were attacked and the drivers were killed in Pakistan. This is one of the reasons the leadership of our uniformed military want New START ratified.

A world without New START is one in which there is more Russian fissile material in existence, material which could be stolen for use in a terrorist attack.

There are many reasons top U.S. counterterrorism officials in the International Atomic Energy Agency want New START ratified.

A world without New START is one in which Russia's Government is perhaps less likely to help stop Iran's nuclear weapons program. A world without New START is one in which Iran perhaps is given access to Russian S-300 missiles, a weapon capable of reaching the State of Israel. This is one reason the Anti-Defamation League, B'nai B'rith, the American Jewish Committee, and other prominent pro-Israel groups want New START ratified.

In a world without New START, there is no way the Russians will agree to decrease their tactical nuclear weapons. Our friends in Eastern Europe and those across the continent will be less secure in the knowledge that threats to their security are not diminishing but could, in fact, be growing. That is the reason 25 European Foreign Ministers want this treaty ratified.

A world without New START is one in which the 1970 Nuclear Non-Proliferation Treaty, the so-called NPT, the cornerstone of preventing nuclear weapons states, is severely threatened. What does this mean in practical terms? The New START accord is a clear demonstration that the United States is upholding our obligations under the NPT, which in turn can help secure support from other countries for a strong arms control regime and assistance on other nonproliferation issues. Many countries see nuclear terrorism as a problem for the United States and for the West. In a world without New START, these countries would seriously question our commitment to the NPT. These countries would question that right away.

Without New START, government officials around the world will question the U.S. commitment to nonproliferation itself. They will ask: If the United States is not seriously committed to arms control and nonproliferation, why should we be?

A world without New START contains many hard realities for the United States. Ratification of this treaty is not a political victory for one party or another; it is a national security victory for our great Nation, for our nuclear security—from nuclear security, to the security of our troops in Afghanistan, to the security of our ally Israel.

A world without New START is one in which the enemies of America will breathe a little easier. Strained U.S. supply lines make life easier for the Taliban. Fewer available intelligence capabilities would make life easier for al-Qaida terrorists in Pakistan tribal areas. A strained U.S.-Russian relationship makes life easier for the government of the regime in Iran.

A world without New START makes life easier for terrorists trafficking in fissile material to travel across borders.

A world without New START means no negotiations with the Russians to decrease their tactical nuclear weapons.

The world I just described isn't a world we have to settle for. A world without New START is not a world we have to accept. We must give the American people some peace of mind as to our national security. That is a world with a New START treaty. We must ratify this treaty and diminish the number of nuclear weapons pointed at the United States today. We must deploy nuclear inspectors to Russia, thus returning stability and transparency to our nuclear relationship,

and take the burden off of our intelligence agencies.

A world with New START means a more constructive relationship with Russia, which is good for our troops in Afghanistan and bad for the regime in Iran.

A world with New START means the beginning of a conversation with the Russians on tactical nuclear weapons.

A world with New START is one in which there is less fissile material for terrorists to steal or buy on the black market.

A world with New START means increased cooperation with countries combating nuclear terrorism. The most serious threat to U.S. national security is the threat of nuclear weapons in the hands of terrorists. In 1961, at the United Nations, President John F. Kennedy said:

Every man, woman and child lives under a nuclear sword of Damocles, hanging by the slenderest of threads, capable of being cut at any moment by accident or miscalculation or by madness.

Some have observed that in this post-9/11 era of increased terrorism, we may be more vulnerable to a nuclear attack than we were during the Cold War. Today, the sword of Damocles still hangs by the slenderest of threads, but we have the ability to prevent this threat by minimizing access terrorists would have to nuclear material.

President Obama's nuclear security summit earlier this year was a historic event. It helped create a foundation upon which other countries will take up the challenge of nuclear security and cooperate with the United States to accomplish the President's goal of securing all fissile material in 4 years. We cannot do this alone. In order to confront this most serious threat to U.S. national security, we need to build stronger ties with our allies around the world, and part of building that trust is rebuilding our own credibility on nonproliferation issues. This New START agreement is a very positive step in that direction. It is an essential predicate for fulfilling our commitments under the nonproliferation treaty—a key marker for many potential allies on a range of nuclear security issues. Upon ratification of New START, we must make progress on securing fissile material around the world.

This is a strong resolution of ratification. It passed out of the Foreign Relations Committee by a bipartisan vote of 14 to 4. It includes strong language on missile defense, verification, and tactical nuclear weapons.

Finally, the American people are watching. According to a November 2010 CNN poll, 73 percent of Americans support ratification of this treaty. They understand the implications of a world without the New START agreement.

In a hurricane of partisan rancor and political battles, the national security consensus is as strong as an oak tree in support of the New START agreement—all six living former Secretaries

of State, five former Secretaries of Defense, three former National Security Advisers, seven former commanders of the U.S. Strategic Command, the entire Joint Chiefs of Staff, our intelligence services, the President, and three former Presidents.

The American people have a right to expect ratification of New START. They want New START and will hold us accountable if we do not ratify it. Let's vote for New START's resolution of ratification and cast a strong bipartisan vote in favor of our national security.

I close with commendations for both our chairman, Senator KERRY, and Ranking Member LUGAR and so many others who have worked so hard to make sure we can ratify this treaty.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, may I inquire, is there any time limitation on Senators at this point?

The ACTING PRESIDENT pro tempore. The Senate is operating postcloture, and each Senator has up to 1 hour.

Mr. CORNYN. I thank the Chair. I assure my colleagues, I will not use the full hour, which I am sure is good news.

Mr. President, I oppose the ratification of the New START treaty for the reasons many of my colleagues have articulated and to which I have previously spoken. The treaty requires unilateral reductions of the United States on strategic nuclear weapons. It fails to address tactical nuclear weapons—an area in which the Russian Federation has a 10-to-1 advantage. This is not an idle or incidental matter.

GEN Nikolai Patrushev, Secretary of the Russian National Security Council, a body in charge of military doctrine, has declared that Russia may not only use nuclear weapons preemptively in local conflicts such as Georgia or Chechnya but may deliver a nuclear blow against the aggressor in a critical situation, based on intelligence evaluations of his intentions.

I submit also that the verification provisions of this treaty are weak, allowing only 18 inspections a year for an arsenal of more than 1,500 weapons. Obviously, the ability to get more than a sampling of Russian Federation compliance would be impossible given the relatively few number of inspections permitted under the treaty.

As we have discussed off and on over the last few days, the preamble of the treaty itself is ambiguous and has been construed by the Russians themselves as limiting the ability of the United States to expand its own missile defense system.

I realize the President of the United States has submitted a letter stating his unilateral opinion of what that treaty obligation means, but, of course, treaty obligations are not unilateral declarations, they are bilateral agreements. Of course, the consequence of a

misunderstanding over this important issue of missile defense could allow either side to withdraw from the treaty and, indeed, the threat of withdrawal from the treaty because of this misunderstanding is something that could be avoided in the first instance if, in fact, some of the amendments addressing missile defense were allowed and the treaty modified to that extent. At that time, the Russians could then be asked: Will you agree with this modification, and we would know upfront, not on the back end, their sincere intentions.

But I would say that the New START treaty has flaws when you look at it, not only in its various provisions; that is, when you reason from the whole to its parts, but I would suggest the treaty also fails when you look at it the other way around, when you reason from the parts to the whole, when you see this treaty is another example, another symptom, of a foreign policy that sends a message of timidity, even ambivalence, not only about our own security but about America's leadership role in a very dangerous world.

This larger strategic context is what we need to keep in mind. We all know that President Obama has set incredibly high expectations for his Presidency in terms of how he would conduct American foreign policy. In an early Presidential debate, for example, he promised to meet with the leaders of five rogue nations—Iran, Syria, Venezuela, Cuba, and North Korea—"without precondition during the first year of [his] administration." Well, we now know that never happened.

After he won the nomination, you will recall, in his famous speech he gave in the city of Berlin, while still a candidate for the Presidency, he declared he was a "citizen of the world." Also, he said: "This is the moment when we must come together to save this planet."

President Obama was not the only one promoting a grandiose vision of his Presidency. Remember the Nobel Prize Committee received his nomination for the Peace Prize less than 6 weeks after President Obama took office. In the citation for the award last year, they said:

[President] Obama has as President created a new climate in international politics.

Only very rarely has a person to the same extent as Obama captured the world's attention and given its people hope for a better future.

You might ask, What relevance does this have to our consideration of the START treaty? The relevance is that a big part of this utopian dream of a "new climate in international politics" has been the elimination of all nuclear weapons.

In that Berlin speech, then-Senator Obama said that one of his priorities was to "renew the goal of a world without nuclear weapons."

The citation for the Nobel Peace Prize included this observation:

The Committee has attached special importance to Obama's vision of and work for a world without nuclear weapons.

The vision of a world free from nuclear arms has powerfully stimulated disarmament and arms control negotiations.

Indeed, in an op-ed piece, authored by the Secretary of State Hillary Clinton, dated April 7, 2010, in the *Guardian*, she argues that the START treaty is an important step toward a nuclear-free world.

So you might ask, what is wrong with a vision of the world without nuclear weapons? Can't we hope and dream? Of course, even without nuclear weapons, we know that in World War I and World War II tens of millions of people lost their lives in armed conflict. So it is not as if a world without nuclear weapons is a world without war and a world without danger for peace-loving nations such as ours and our allies.

We also know that any number of foreign policy experts have expressed serious reservations about indulging in this fantasy of a world without nuclear weapons.

George Kennan has said:

The evil of these utopian enthusiasms was not only or even primarily the wasted time, the misplaced emphasis, the encouragement of false hopes. The evil lay primarily in the fact that those enthusiasms distracted our gaze for the real things that were happening. . . . The cultivation of these utopian schemes, flattering to our own image of ourselves, took place at the expense of our feeling for reality.

The President of the United States has not only mused about fantastic notions that have no basis in the real world, he has criticized his own country on foreign soil so often that some called that particular trip "the world apology tour."

So what should our competitors and would-be adversaries make of these statements of a fantasy world that is nuclear free and a President who travels abroad and apologizes for America's strength? Regretfully, I can only conclude it sends an impression of weakness and a lack of determination to maintain America's leadership in the world. We know there are dangerous consequences associated with an interpretation by others that America has lost its resolve to lead the world or to maintain its own security and to protect its allies.

President Reagan said famously:

We maintain the peace through our strength; weakness only invites aggression.

Experience has proven the truth of those words.

We should recall that the President of the United States conducted YouTube diplomacy by recording a video for Iran's leaders—but then withheld comment when those same leaders were brutally crushing a pro-democracy movement and their own people's hopes for freedom.

The President has treated several of our allies without the respect they deserve. Some have been, like Britain, slighted; others, like Israel, have been

lectured; and other of our allies have been thrown under the bus on missile defense, like Poland and the Czech Republic.

He has been so idealistic and naive, you might say, about the subject of nuclear weapons that President Sarkozy of France remarked about it publicly at a meeting of the United Nations Security Council. He said:

We live in the real world, not in a virtual one. . . .

President Obama himself has said that he dreams of a world without nuclear weapons.

Before our very eyes, two countries are doing exactly the opposite at this very moment.

President Sarkozy said:

Since 2005, Iran has violated five Security Council Resolutions. . . .

He said:

I support America's "extended hand." But what have these proposals for dialogue produced for the international community?

Nothing but more enriched uranium and more centrifuges.

And last but not least, it has resulted in a statement by Iranian leaders calling for wiping off the map a Member of the United Nations.

I fear the New START treaty will serve as another data point in the narrative of weakness, pursuing diplomacy for its own sake—or indulging in a utopian dream of a world without nuclear weapons, divorced from hard reality.

Last week, I mentioned that Doug Feith, formerly of the Defense Department, helped negotiate the Strategic Offensive Reductions Treaty, known as the SORT treaty. Mr. Feith said that during the negotiations of the SORT treaty, the Russians were constantly trying to get the United States to negotiate away our right to defend ourselves from missile attacks through a robust missile defense program.

The Bush administration rightly rejected those Russian demands and—you know what—we got a good treaty anyway. The Obama administration, on the other hand, gave Russia what it wanted—or what it says it wanted—among other concessions. But that is not the only concession that was given under the New START treaty.

I would ask my colleagues, Where are the concessions that Russia made to us in this treaty? Where are the concessions that Russia made to us? And what in the treaty is a good deal for the United States?

But my colleagues may reply, So what. So what if the Obama administration's world view is a little bit naive. So what if the Russians negotiated a much better deal for themselves than the Obama administration got for the United States. Shouldn't we go ahead and approve the treaty anyway? What harm could it do? Couldn't it help build a better relationship with the Russian Federation and help transform America's reputation in the world?

Those are actually good questions. But the answers are sobering. The administration has long argued that its approach to diplomacy was not only

good for its own sake, but it would strengthen relationships with nations all around the world. I would ask you, how has that worked out?

Charles Krauthammer reviewed the global response to President Obama's diplomatic overtures in this way. He said:

Unilateral American concessions and offers of unconditional engagement have moved neither Iran nor Russia nor North Korea to accommodate us.

Nor have the Arab states—or even the powerless Palestinian Authority—offered so much as a gesture of accommodation in response to heavy and gratuitous American pressure on Israel.

Nor have even our Europe allies responded: They have anted up essentially nothing in response to our pleas for more assistance in Afghanistan.

And, of course, we could look at the results of the New START treaty itself. Russian leaders have responded to American concessions with contempt. Russian Foreign Minister Sergey Lavrov has said that the treaty “cannot be opened up and become the subject of new negotiations.” Prime Minister Putin has threatened a new arms race if Russia does not get its way with this version of the treaty. Russian leaders have the temerity to lecture and attempt to intimidate the Senate from discharging our constitutional responsibilities. We should not succumb.

In deciding whether to vote for the treaty, I would respectfully ask whether some Senators have been asking themselves the wrong question. Instead of asking ourselves the question, Why not ratify? What is the harm? I would suggest that the better question is, Why should we? I would urge my colleagues to vote against this treaty not because I do not care about the message it will send to Russia and other nations but because I do care about that message, and it is time we stop sending a message of weakness that only encourages our adversaries.

I urge my colleagues to vote no on this treaty, to require the administration to go back to the negotiating table with the Russians, to get a better deal for the United States, and to make clear that the era of unilateral American concessions is over.

Mr. President, I yield the floor.

Mr. VITTER addressed the Chair.

Mr. KERRY. Mr. President, I would simply ask to get a sense of how long the Senator thinks he might speak. We might line up the next speaker.

Mr. VITTER. Five minutes.

Mr. KERRY. Mr. President, I ask unanimous consent that when the Senator from Louisiana is finished, the Senator from Florida, Mr. NELSON, be recognized for 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. I thank my colleague.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I too am opposing the ratification of this New

START treaty because I think it makes us less secure, not more secure, as a nation. Of course, that has to be the ultimate test.

A toughly negotiated, balanced treaty with Russia which allowed for adequate and reliable inspections and data exchange could make us more secure. But this is not such a treaty. It is clear to me that President Obama went into negotiations willing to give up almost anything for a treaty, and that basic posture produced what it always will—a bad deal for us.

The proponents of the treaty suggest as much when they lay out as their top arguments for ratification: a better relationship with Russia, the help from Russia on other issues that ratification could engender, and progress with world opinion.

I think it is dangerous to count on any of that or to look at all beyond the four corners of the treaty—the pros and cons of the details and the substance of the treaty itself.

When I look within the four corners of the treaty, I am particularly concerned about four cons of the treaty.

First, serious roadblocks to missile defense: I think it is a fundamental mistake and a dangerous precedent for any treaty on offensive arms to even mention missile defense, and Russia has made it clear that any major progress on U.S. missile defense will cause them to leave the treaty. Particularly with President Obama in office, this creates real political obstacles to the full missile defense I support and the American people support in great numbers. Indeed, President Obama has already abandoned our missile defense sites in Eastern Europe to help produce an agreement on this treaty by the Russians.

Second, fundamentally imbalanced arms reductions: In this treaty, we reduce our nuclear arms significantly; Russia stays where they already are. Meanwhile, we still aren't getting to the issue of tactical weapons, a category where Russia has a huge 10-to-1 advantage. We have talked about that for decades, and we still aren't getting there. Clearly, when the United States has leverage to commit Russia to reduce their tactical nuclear weapons as we do right now before this treaty, and those nuclear weapons are the most vulnerable to end up in terrorists' hands, we must use that leverage and not throw it away for U.S. and global security. Instead, proponents of this treaty argue that a further treaty addressing tactical nuclear weapons in the future will materialize, but the leverage we have to get there is being given up, essentially, with this treaty.

Third, inability to verify: This treaty does not give us the inspections and data we need to verify Russian compliance, and we know Russia has cheated on every previous arms control treaty with us. Verification is clearly less under New START than in START I, but it now needs to be greater because the nuclear deterrent under this treaty

would be much smaller and thus produce much less room for error.

Fourth and finally, major but ultimately inadequate progress on nuclear modernization: Now, major progress has been made during the ratification debate on the administration's commitment and concrete plans for nuclear modernization. I thank everyone who has helped produce that, particularly the leader in that effort, Senator JON KYL, for his work which, again, did produce real progress. But, ultimately, neither the specificity of the administration's commitment, including on the nuclear triad issue, nor the proposed schedule is adequate to our security needs, so I will certainly continue fighting to get where we need to be.

So, in closing, I urge my colleagues to look hard at this treaty and to ask the only ultimate question: Does it make us less secure or more secure? I think clearly for the four major reasons I have outlined, and others, it makes us less secure, and we need to do far better.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I rise in support of the New START treaty. I wish to make a comment. I was raised in a time that when the President of the United States went abroad, he spoke for our country and there was no partisanship when that occurred.

It is troubling to this Senator to hear comments about our President when he goes abroad in an apology tour. I would beg to differ, and I think we ought to rise above that partisanship when issues of national security are at stake.

Now to the treaty. This agreement with Russia is going to strengthen our national security. Look at all the people in the Pentagon who have embraced it—the former Secretaries of State, the former Secretaries of Defense, from both sides of the political aisle, and it deserves our support too. I expect today we are going to get an overwhelming bipartisan vote in favor of this treaty.

I wish to specifically address the question that has been raised about modernization of our nuclear stockpile—an issue I had the privilege, as chairman of the Strategic Subcommittee of the Armed Services Committee, to be engaged in over a 4-year period. Arguments have been made that somehow this treaty is going to interfere with the modernization of our nuclear weapons infrastructure. Well, it is exactly the opposite. Ratification of this treaty is so important to give security and stability to the question of the use of those nuclear weapons that it will allow us to spend the needed resources on the modernization of our nuclear complex, which is an equally important matter.

As part of this year's Nuclear Posture Review, the administration has

made a commitment to modernize our nuclear weapons arsenal and the complex. We must do so to maintain a credible nuclear deterrent because as these weapons in stockpile age, we have to update them and we have to modernize them so they are effective, secure, but also safe. We need to be sure our nuclear weapons are going to work as designed and that they will remain stable and secure.

In the past, when we maintained a larger and more expensive nuclear stockpile, our weapons were developed and tested frequently. That is very expensive. By the mid-1990s, we had developed sophisticated computer models that can identify and resolve the problems without the nuclear testing. Unfortunately, because of lessened funding back in the era of about 2006 that research diminished, resulting in the layoffs of a lot of the people in our National Labs. I have had the privilege of visiting those three National Labs. There is an incredible array of talent, but that is what happened back in 2006.

I think we have, especially in this administration, a new resolve to turning the situation around and to modernizing the nuclear complex. So what does this modernization entail? The comprehensive plan includes an \$85 billion investment over the next decade and a \$4 billion increase over the next 5 years, and that investment is going to accomplish several things. It is going to fund the construction of the 21st century uranium and plutonium processing facilities, it is going to spur a reinvestment in the scientists and engineers who perform the mission, and it is going to enhance the lifetime extension program for our nuclear weapons. By the way, it is not only just extending the life of those weapons, it is also making them safer.

Some Senators have expressed concerns about the level of funding for this modernization. I believe our President and this administration have adequately addressed those concerns, and I would note that the Directors of the three labs—Los Alamos, Lawrence Livermore, and Sandia—all believe the administration's current plan will allow them to execute their requirements for ensuring a safe, secure, reliable, and effective stockpile.

While we move forward with that modernization program, we should also move forward—it is a separate issue—with the treaty. Passing this treaty is going to safeguard our national security while demonstrating to the men and women of our nuclear complex that we have reached a national consensus on nuclear sustainability.

Mr. NELSON of Florida. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, I ask unanimous consent that cosponsors be added to Corker amendment No. 4904, as modified, as follows: Senator LIEBERMAN, Senator BROWN of Massachusetts, and Senator MURKOWSKI.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, we are awaiting the Senator from Arizona who, I know, is working on a couple of things right now. We need to clear a couple of things with the Senator, and we are working on the possibility of accepting his amendment. We just need to tie up those loose ends.

So I think the Senator from Wyoming may have had a request he wanted to make. We can do that now, and then we will see where we are.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I rise today to speak on the importance of Minutemen III intercontinental ballistic missiles, known as ICBMs, and an amendment I intend to offer. The ICBM is just one leg of our nuclear triad. The nuclear triad spans sea, air, and land. It relies on mobile bombers, hard-to-detect ballistic missile submarines, and ICBMs. They all work together to complicate and deter any attempt at a successful first strike on our country. Like a stool, if you shorten just one leg too much, the stool will become unstable.

Our nuclear triad is not just a weapons system, it is a deterrent. The further we weaken our nuclear forces, the less of a deterrent our triad will become.

Those folks who believe in nuclear zero and arms control seek a world without nuclear weapons at any expense—in my opinion, never at the expense of our national security. The fact is, for over 50 years our ICBM force has deterred a nuclear attack against the United States and our allies.

Some arms control supporters claim our ICBMs are on “hair-trigger alert.” They believe an ICBM can be launched by simply pushing a button. This misleading claim that an unauthorized launch can destroy the world in a matter of minutes could not be further from the truth.

GEN Kevin Chilton, the outgoing commander of STRATCOM, once described our nuclear posture as:

The weapon is in the holster . . . the holster has two combination locks on it, it takes two people to open those locks, and they can't do it without authenticated orders from the President of the United States.

The Minuteman III ICBM force is the most stabilizing leg of the nuclear triad.

ICBMs are strategically located and broadly dispersed in order to prevent them from successfully being attacked. The ICBMs protect the survivability of other legs of the triad as a deterrent. They offer an umbrella of protection to our most-valued allies. ICBMs also represent the most cost-effective delivery systems the United States possesses. Unlike a bomber, ICBMs ensure a second attack capability.

As required by section 1251 of the 2010 National Defense Authorization Act,

earlier this year, the administration submitted its force structure plan. The President's 1251 force structure plan provides up to 420 ICBMs, 14 submarines carrying up to 240 submarine-launched ballistic missiles or SLBMs, and up to 60 nuclear-capable heavy bombers.

We are being asked to ratify this treaty without knowing what our force structure will actually be. We are being told: Pass the treaty, and then we will tell you what the force structure will actually look like.

The 2001 Nuclear Posture Review laid out our force structure in plain view, while the 2010 Nuclear Posture Review is silent on the force structure.

This report also laid out the administration's plan to modernize and maintain our nuclear delivery vehicles.

With respect to the next generation of ICBMs, the update states:

While a decision on an ICBM follow-on is not needed for several years, preparatory analysis is needed and is in fact now underway. This work 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.

The amendment I plan to offer has no impact on the treaty. It simply requires the President to certify that further reductions in our land-based strategic nuclear deterrent will not be considered when reviewing the options for a follow-on ICBM. This is something I have worked on with Senator CONRAD. He has a second-degree amendment to mine, and it is something we both support.

LTG Frank Klotz, the new commander of Global Strike Command, was quoted last year at the Air Force Air and Space Conference and Technology Exposition here in Washington, DC, as saying:

Continuously on alert and deployed in 450 widely dispersed locations, the size and characteristics of the overall Minuteman III force presents any potential adversary with an almost insurmountable challenge should he contemplate attacking the United States. Because he cannot disarm the ICBM force without nearly exhausting his own forces in the process, and at the same time, leaving himself vulnerable to our sea-launched ballistic missiles and bombers, he has no incentive to strike in the first place. In this case, numbers do matter . . . and the ICBM thus contributes immeasurably to both deterrence and stability in a crisis.

The force structure of our nuclear triad is critical to maintaining an effective deterrent.

In 2008, Secretary Gates coauthored a white paper titled “National Security and Nuclear Weapons in the 21st Century.” This paper argued for a strong nuclear deterrent. The forward stated:

We believe the logic presented here provides a sound basis on which this and future administrations can consider further adjustments to U.S. nuclear weapons policy, strategy, and force structure.

The white paper by Secretary Gates recommended a U.S. strategic nuclear force baseline that includes 450 Minuteman III ICBMs, 14 Ohio class submarines, and 76 bombers, 20 B-2 and 26

B-52 bombers, for a total of 862. The administration cannot explain how the threat environment has changed since the 2008 recommendation to maintain 862 delivery vehicles. They cannot explain what has changed to allow our nuclear deterrent to be reduced to 700 delivery vehicles.

It sounds to me as if this administration has been a little too eager in negotiating the treaty.

James Woolsey, in a recent Wall Street Journal article, described his experiences negotiating with the Russians. He said:

The Soviets taught me that, when dealing with Russian counterparts, don't appear eager—friendly, yes, eager, never.

I think Mr. Woolsey would know; he was involved in the SALT I treaty in 1970 and many more arms control agreements with the Russians before he took over as the Director of Central Intelligence.

I ask unanimous consent to call up amendment No. 4880, a Barrasso-Enzi amendment, and then a second-degree by Senator CONRAD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. KERRY. Mr. President, as the Senator knows, we had a discussion about this, and I am constrained to object. I think he understands why. I welcome further debate if he would like, but I must object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BARRASSO. Thank you, Mr. President.

I yield the floor.

Mr. KERRY. Mr. President, I thank the Senator for the issue, as it is important. I understand its importance to the part of the country where those particular weapons are housed today. I am confident—and I know this—that the administration, because we have talked about it, has a plan that I think will meet with the consent and approval of the Senators' concern, but they need to go through the further evaluation and analysis of all of these decisions. Decisions have not yet been made, and it would be inappropriate at this time to constrain the latitude they need in order to be able to make those judgments. It is an important issue, but I think it is inappropriate for us to constrain them and particularly to do so in the context of the treaty itself.

Mr. President, we are working with our friends on the other side of the aisle to really try to get the final agreement as to how we are going to proceed. I believe it is going to be possible for us to work out the issues with Senator KYL and his amendment. So I hope we will not need any other votes other than the final vote on the treaty. That is our hope at this point. We will try to work through that over the course of the next few minutes.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, knowing that we are getting to that moment at which point we are going to have an understanding of how we are proceeding forward and knowing that because of the 30-hour limitation, no matter what, we are getting toward the end, rather than chew up time for Senators later on, I thought I would take a moment now to say thank you to a few folks involved in this process. Before I do that, I also will reserve some time, as I will for Senator KYL and Senator LUGAR—and this, I assume, will be part of the agreement we are going to reach—to speak to the substance of the treaty at the appropriate time before we vote.

It has been an incredible team effort by an awful lot of people over the course of a lot of months. I wish to thank all of them for their involvement.

Senator LUGAR has been an unbelievable partner and a visionary with respect to these issues but, importantly, just a very steady, wise, and thoughtful collaborator in the effort to get the treaty to where we are today. It hasn't always been easy for him because there were times when he was a lonely voice with respect to those who were prepared to support this treaty. I wish to pay tribute to his statesmanship and his personal courage in steadily hanging in there with us.

I thank President Obama for his determination to make certain that this was the priority that he felt it was and that I think it is. He and so many folks in the administration have been helpful in this effort.

I will reserve some comments later more specifically, but I think the Vice President has been, at the President's request, an invaluable collaborator in this effort. He has talked to any number of colleagues, made any number of phone calls, been involved in any number of strategic choices here, and I am deeply grateful to him for taking his prior stewardship of this committee and being as thoughtful as he has been in the way he has approached this particular treaty.

Secretary Clinton likewise has dedicated herself and her staff to the effort to work through unbelievable numbers of questions, to make themselves available and to make herself available to talk with colleagues.

This has been a tremendous team effort with Secretary Gates, Secretary Chu, Admiral Mullen, General Chilton, LTG O'Reilly, and others. None of these things can happen if there isn't a team pulling together to answer questions and deal with the issues colleagues have.

At the State Department, Assistant Secretary Rose Gottemoeller has been unbelievably available, patient,

thoughtful, and very detailed in her efforts to answer the questions of Senators and be precise about this negotiation. She led a tremendous team and worked very closely with Assistant Secretary of State for Legislative Affairs Rich Verma, who likewise helped coordinate and pull people together to deal with the issues we faced. Dave Turk, Terri Lodge, Paul Dean, and Marcie Ries have all been key members of that team, and we thank them for their amazing commitment of hours and the dedication they have shown to the effort to try to get us to where we are today, to this final vote.

Likewise, at the Pentagon, Deputy Under Secretary of Defense Jim Miller; the chief Defense Department representative on the negotiating team, Ted Warner; Marcell Lettre; Eric Pierce; Michael Elliott; and Chris Comeau—all of them, together with the State Department, provided the kind of linkage we needed and the consistent effort to answer questions and deal with their principals in order to get the information necessary for Senators to be able to make good judgments.

At the Energy Department, Tom D'Agostino and Kurt Siemon were also constantly available.

At the White House, I thank Pete Rouse, chief of staff, and Tom Donilon, the National Security Adviser, and I especially thank Brian McKeon, Vice President BIDEN's National Security Deputy, who has just done an extraordinary job of helping to provide the bridge between various agencies, as well as strategy, and has been consistently available to us. Louisa Terrell and Jon Wolfsthal have been part of that team. We are very grateful to all of them.

On the Foreign Relations Committee, it has been a great team effort with Senator LUGAR. The chief of staff of the Foreign Relations Committee, Frank Lowenstein, has worked countless hours on this treaty, together with Doug Frantz, Ed Levine, and Anthony Wier. These two gentlemen, Ed Levine and Anthony Wier, are unbelievable veterans of this kind of effort. They worked with Senator BIDEN for years. I am delighted they were willing to stay over and continue with the committee.

In the case of Ed Levine, he lost his dad during the course of this debate a few days ago and, nevertheless, hung in there with us and stayed right at it. The wisdom and experience he has brought to this task is invaluable, together with his collaborator Anthony Wier. Peter Scoblic, Andrew Keller, Jason Bruder, and Jen Berlin have been enormous contributors to this effort. I am grateful to all of them.

On the Republican side, Ken Myers—Ken brings so much experience and wisdom to this task. He has been with Senator LUGAR for a long time. What he has done to help us bridge the divide is immeasurable. Tom Moore and Mike Mattler worked with him.

Our staff in S-116, which has sort of been headquarters for us, Meg Murphy

and Matt Dixon have put up with strange hours and interruptions. We are eternally grateful to them.

Obviously, nothing happens in the Senate without the floor staff, the folks who put in these long hours. Jessica Lewis and Tommy Ross on Senator REID's staff have been invaluable to us. Lula Davis, Tim Mitchell, and Stacy Rich are invaluable on every issue here. The Senate would not work without them. We are deeply grateful to all these people.

I am glad the schedule allows us a moment where we can actually thank them all publicly. They do a service for our country that many people in the country never have a sense of. They do not see it. Government gets a lot of criticism, but let me tell you, these folks work as hard as any people I know anywhere, and a lot of things could not happen without them.

As I said, I wish to speak to the substance of the treaty before we vote, but for the moment I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, I wish to seize the moment, along with my distinguished chairman, because we are indebted to all the great people he has enumerated, to embellish his congratulations by mentioning that we are grateful, first of all, that the President invited Senator KERRY and me to be part of conversations on two occasions during the negotiation of the treaty. That, we thought, was very valuable and gave us some insight as to where the negotiators were headed and to offer what counsel we could about those issues we felt were important and those issues we were certain all Senators would feel were important as we sought ratification of the New START treaty.

Likewise, those conversations were carried on rigorously by the Vice President, our former chairman of the Senate Foreign Relations Committee, JOE BIDEN, who has worked with Senator KERRY and with me over the course of three decades or so of active participation and several arms control treaties. Vice President BIDEN has a very good idea of how the ratification process works and what counsel he can give, not only to us but to all Members and colleagues with whom he has worked so well in the past.

I am especially pleased, likewise, that Rose Gottemoeller, who headed the negotiation team, has been very available to Senators throughout the time of the negotiation abroad and during her trips to Washington and certainly throughout the hearings the Foreign Relations Committee held.

We are indebted, in fact, to all the witnesses who came before our committee in the 16 hearings that have often been enumerated in conversation on the floor. The witnesses were generous with their time, very forthcoming with their testimony and followup questions the Senators had. Because of that testimony, there is a very

solid block of support for the treaty based upon these distinguished Americans who have had enormous experience, not only with arms control treaties but the actual implementation of these with the former Soviet Union—and now with Russia—in the past.

I am indebted, as JOHN KERRY is, to Ken Myers, Tom Moore and Mike Mattler of our staff and to Marik String and Corey Gill. I cite these five members of a very devoted staff who have devoted extraordinary talents and time and devotion to the treaty formulation and to the counsel they have given me, for which I am very much indebted.

Finally, I thank all the members of the Senate Foreign Relations Committee for their diligence and attendance at hearings and their questioning of each other, as well as the witnesses and the discussions we have had both in informal and formal sessions. We have had a difference of opinions. Our views were not unanimous in the 14-to-4 vote by which the Senate Foreign Relations Committee sent this New START treaty to the floor. But I respect deeply each of those views, and I respect the ways in which members of the committee have participated during this very important debate.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I say Merry Christmas to all my colleagues. We never expected to find ourselves here this time of year, but obviously there are very important issues to discuss.

On November 2, Americans made a pretty historic statement. After 2 years of many things being crammed down their throat that they did not like, they made historic changes in the House and the Senate. I think all expectations were that the new Congress would come in and begin to change things. Very few Americans—and I think very few of us in the Senate—actually thought we would use the time between that election and the swearing in of the new Members of Congress to continue to cram through more things America does not want.

Most businesses have learned that if they ever have to make the difficult decision of firing someone, it is very important that person be sent home right away because getting fired usually makes people angry and less loyal to the company that fired them. Instead of dealing with all the mischief that might occur, the fired employee is sent home right away.

We are a fired Congress in a lot of ways. America has sent us home. Many people who set the policies for the last 2 years have been unelected. Some have retired. But the decisions that are being made now in this Congress are decisions being made by people who have either retired or who have been turned out of office. So much is being pushed through because of the fear

that if we actually let the newly elected Congressmen and Senators be sworn in before we take up these important issues that they will actually reflect the opinions of the American people and stop what we are doing.

We have decided to use this lame-duck session to push many items through. It is a very unaccountable Congress. We tried to push through a huge omnibus spending bill with thousands of earmarks, exactly the thing about which Americans have said no more. Thankfully, Republicans stood together to stop that bill.

We needed to extend our current tax rates, but even in order to get a temporary extension, we in the minority had to agree to more deficit spending. In this lame-duck session, we have pushed our political correctness on to our military by repealing don't ask, don't tell without the proper studies, without the proper phase-in time, and no rational approach to this. It was just check the box of another political payback.

In another check the box of amnesty, the DREAM Act, which was brought up and fortunately Republicans stood against something that again avoided the big issue of border security. This Congress has continuously rejected the idea of carrying through on our own law to complete the double-layer fencing we put into law to protect the southern border. Thousands of people are being killed on the border because we refuse to take action. Yet we are continuing to try to expand the problem with more amnesty and citizenship and public benefits to those who came here illegally.

The threat is now to keep us here until Christmas or beyond to pass what we are calling a 9/11 bill. Every Member of this Chamber—Republicans and Democrats—wants to do what is right for the first responders who may have been injured after 9/11. But we owe it to the American people to be accountable to how we spend money. To put a bill on the floor, in an unaccountable lame-duck Congress, that has not been through hearings, when we do not know how the millions of dollars have been used that we have already given to the same cause certainly is worth a few weeks of committee hearings and understanding exactly how to spend taxpayer money effectively in a way we know will help the people who have been injured.

But, no, we have to push that through in a fired, unaccountable Congress. Of course, now the big issue of the day is somehow, in a time of economic recession and so many people being out of work, that we want to use this lame-duck, unaccountable Congress to push through a major arms control treaty with Russia. Somehow that ended up on the top of our priority list, using Christmas as a backstop to try to force us to pass this bill.

It is pretty interesting how this has progressed. The treaty had no chance of ratification until the President

agreed to billions of dollars in modernization of our nuclear weapons.

We have to stop and ask ourselves: Why should we have to have backroom trading going on to modernize our nuclear weapons? That should be something the President is committed to, that we are committed to. We should not have to trade for modernization. But now we appear to have enough Republicans who have decided this is a good treaty to ratify a few days before Christmas in a fired, unaccountable Congress, with the need to push it through before America's representatives actually get here the first of January. The sense here is if we let the people America just elected come, that maybe the treaty will need some modifications.

There have been many questions expressed about the treaty. I think some of them are very legitimate. Clearly, missile defense is a problem. The Russians have expressed that Americans cannot develop any kind of comprehensive missile defense system under this treaty. We say: No, no. We can develop a limited missile defense system. We are going through all kinds of convoluted language to put things in non-binding areas of this agreement, to say we are committed or we are going to communicate to the Russians that we are committed, but we even were unwilling to put it in the preamble that there is no linkage between the development of our missile defense system and this treaty agreement. Clearly, there is a linkage. The Russians believe there is a linkage.

All the correspondence from the President says "limited missile defense system." We obviously have agreed to it. We never could get the negotiating records to confirm that, but everything suggests there is an implicit and explicit agreement that America will not attempt to develop a missile defense system capable of defending against Russian missiles. Perhaps capable of defending against a rogue missile launch or an accidental missile launch, but the language in this treaty, communications from the White House, the hearings all say we will only have a limited missile defense system.

There should be no mistake, there should be no confusion, the agreement to this treaty is an agreement for America not to develop a comprehensive missile defense system. If that is satisfactory, then let's ratify. Clearly, there are holes in the verification process of this treaty. The growing and biggest threat is tactical nuclear weapons. Shorter range missiles, ground-based, sub-based are not even included in this agreement. The Russians are fine with this. They were going down to the same long-range missile count we require in this treaty anyway. They give up nothing. We don't restrict any of their tactical developments. The verification is less stringent than in START I, with fewer inspections, and the ability to actually look at things such as telemetry are obviously omitted here.

We can't ratify this treaty with any pretense that America is going to be any safer. In fact, I think the biggest problem with this treaty is the whole presumption it is built on—that America should be at parity with Russia. We have talked about it here in this Chamber, that we do not have the same role as Russia in this world. Russia is a protector of none and a threat to many. America is the protector of many and a threat to none. Over 30 countries live in peace under our nuclear umbrella, but we are saying we are going to reduce it, with a lot of questions as to whether we are going to modernize it, and we are telling our allies that tactical nuclear weapons are not going to be restricted in any way, which is probably their biggest concern because of their contiguous location to Russia.

Mr. INHOFE. Will the Senator yield for a question?

Mr. DEMINT. Yes.

Mr. INHOFE. When you talk about the missile defense aspect of this, I wonder if it has occurred to a lot of people that maybe this treaty is with the wrong people. We know right now that Iran is going to have the capability—and this is not even classified—of a nuclear weapon, a delivery system, by 2015. I think one of the worst things for America—and this President did it—was to take down the sites we were planning in Poland that would give us this protection.

My point I want to make, and then to ask the Senator about, is that in the event this is ratified and we are restricted in any way from developing further our missile defense system, doesn't that put us directly in an impaired position in terms of North Korea, maybe Syria, but definitely Iran, that has already indicated and already has the capability of reaching us by that time?

It is interesting that the site would have been in effect to knock down a missile coming from Iran by 2015, the same year our intelligence community tells us they will have that capability. Isn't that the threat we are concerned about, more than Russia?

Mr. DEMINT. I want to thank the Senator from Oklahoma for bringing out another very important point. We are laser focused on this treaty with Russia, which obviously restricts our ability to develop missile defense. Yet we all seem to acknowledge the greatest growing threat in this world is from Iran and North Korea and other rogue nations that can develop nuclear technology.

It is almost like watching a magician at play here, of getting us to look at one hand while other things are going on. We are not paying attention to the Nation's business here, and I am afraid this is just another "check the box"—a foreign policy victory for the administration. If it did not have so many questions related to it, that would be fine, but not to jam this through with a fired, unaccountable Congress, and rushing it through before the rep-

resentatives America just elected have been sworn in, and doing it as part of a list of legislation—a long list over the last 2 years—that America does not want.

I want good relations with Russia and countries all over the world, but I am afraid this is part of a continued effort of accommodation and appeasement; that if we show weakness, other countries will accommodate us. We need Russia to cooperate—with Russia and North Korea. Folks, I don't think this is the way to get it, and I don't think we are going to gain respect for our process of trying to do this under the cover of a distraction of a major holiday with a lameduck, unaccountable Congress.

In the way this is being presented, it is a mockery of the debate process here in the Senate. We are not amending a treaty. We were told at the outset it is "take it or leave it." The Russians are negotiating, clearly, from a position of strength, because they said, here is the treaty, take it or leave it; any changes and the treaty is dead. Is that the way America needs to deal with other countries? Is that the way the Senate should debate a major arms control agreement, where the majority party is saying, you can go talk about it if you want, but we are going to kill every amendment, even though we say we agree with a lot of them. There will be no changes in this.

We are trying to stick some things in here in the areas of the treaty that have no binding aspect and say we have covered it, but we are making a mockery of the whole debate and ratification processes with an unaccountable, fired Congress, under the cover of Christmas, and a debate where we have been told "take it or leave it." This is not what the Senate is about, this is not what Congress is supposed to be about, and certainly we should not be passing major legislation at this time of year with this Congress.

Mr. President, I appreciate the opportunity to speak. I still hope my colleagues will come to their senses and show the American people that we are going to act in a responsible way that respects what they told us on November 2; that this Congress needs to go, a new one needs to come in, and we need to stop cramming things down their throats they do not want.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENNET of Colorado). The Senator from Massachusetts.

Mr. KERRY. Mr. President, we are now in the final throes of getting together a unanimous consent request. The leadership has asked us to proceed forward on the amendment. Senator KYL has asked me—I think he wanted to be here when we do his amendment on modernization, which we are now prepared to accept, with further modification. So I will wait for Senator KYL in order to do that.

In the meantime, I understand we also have an agreement on the missile

defense amendment, and that amendment is now going to be cosponsored by Senator LIEBERMAN and Senator MCCAIN. So if the Senator from Tennessee wants to talk about that amendment, we are prepared to accept it. I think we should have the discussion of that amendment at this point in time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to at this moment ask unanimous consent to change the name of the amendment to MCCAIN-LIEBERMAN-CORKER.

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

Mr. CORKER. I would also ask unanimous consent to add Senators JOHANNIS, LEVIN, and BAYH as cosponsors.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. No objection.

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

AMENDMENT NO. 4904, AS FURTHER MODIFIED

Mr. CORKER. Mr. President, I would send to the desk the amendment, as modified, and as I understand it, this has been accepted by both sides.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing no objection, the amendment is modified.

The amendment, as further modified, is as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(1) EFFECTIVENESS AND VIABILITY OF NEW START TREATY AND UNITED STATES MISSILE DEFENSES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and at the time of the exchange of instruments of ratification shall communicate to the Russian Federation, that it is the policy of the United States to continue development and deployment of United States missile defense systems to defend against missile threats from nations such as North Korea and Iran, including qualitative and quantitative improvements to such systems. Such systems include all phases of the Phased Adaptive Approach to missile defenses in Europe, the modernization of the Ground-based Midcourse Defense System, and the continued development of the Two-stage Ground-based Interceptor as a technological and strategic hedge. The United States believes that these systems do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.

At the end of subsection (b)(1)(C), strike "United States." and insert the following: "United States; and

(D) the preamble of the New START Treaty does not impose a legal obligation on the parties.

Mr. KERRY. Mr. President, I would ask, before we proceed on that—because Senator KYL is now here, so we

could quickly accept his amendment and dispose of that—I ask unanimous consent that we call up Kyl amendment No. 4892, as modified—as additionally modified.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KERRY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4892, AS FURTHER MODIFIED

Mr. KERRY. Mr. President, I believe at the desk now is the Kyl amendment, as modified.

I am sorry about the confusion. Mr. President, I ask unanimous consent that we be able to immediately proceed to the Kyl amendment. We will come right back to the Corker amendment, but I ask unanimous consent to proceed to the Kyl amendment, as modified, with the modification that has been submitted at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4892), as further modified, is as follows:

At the end of subsection (a), add the following:

(1) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate to the extent possible the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request full funding, including on a multi-year basis as appropriate, for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

Mr. KERRY. Mr. President, I believe Senator KYL wishes to say something.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will comment more when I make my concluding comments, but what we have just done is to agree to provide a mechanism for the President to certify a way forward to fund the two large facilities that are part of the nuclear weapons complex in a way that we hope will provide for the most efficient way to build these facilities and to get them constructed as rapidly as possible.

The result of this is that, potentially, we could save hundreds of millions of dollars and construct the facilities at

an earlier date than was originally intended. But to be clear, nothing in this amendment reduces the President's decisionmaking or flexibility. It remains his decision as to how the funding is requested and when it is requested.

Mr. KERRY. Mr. President, I agree with the comments of the Senator. It does leave the President that important ability, but it also puts the question of whether this is a way that is more efficient. It is something we should be looking at, and the President intends to look at it. We will accept this amendment.

Mr. President, I don't think there is further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4892), as further modified, was agreed to.

AMENDMENT NO. 4904

Mr. KERRY. Mr. President, I thank Senator KYL and the Chair, and now, Mr. President, I believe the Corker amendment is the pending business.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to again say that we have asked by unanimous consent to change this to be the MCCAIN-LIEBERMAN-CORKER amendment, and we have also added Senators ALEXANDER, BROWN of Massachusetts, MURKOWSKI, JOHANNIS, LEVIN, and BAYH as cosponsors.

As a matter of tremendous respect and courtesy, I think it would be best for Senator MCCAIN to be the first speaker on this amendment that he was very involved in developing.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, on behalf of myself, Senators LIEBERMAN, and Senator CORKER, I have an amendment at the desk and ask for its immediate consideration.

Mr. KERRY. Mr. President, reserving—I believe the Senator is referring to the amendment that is pending?

Mr. CORKER. That is correct.

Mr. KERRY. It is the pending amendment.

Mr. MCCAIN. First of all, it is probably not too relevant, but I would like to say that this should have been the Lieberman-Corker-McCain or Corker-Lieberman-McCain amendment because of the distribution of effort that has been made on this amendment. Be that as it may, I think this amendment makes some improvement that will be very helpful.

It has two parts. The first requires the President to certify that we do not recognize Russia's argument that the treaty can only be effective and viable only in conditions where the United States is not building up its missile defenses. The statement would also be transmitted to the Russians when the instruments of ratification are exchanged. Second, the amendment would include in the instrument an understanding that the preamble is not legally binding.

I think this is a helpful amendment, and I appreciate that it could be included by the Senator from Massachusetts, but ultimately it does not address my concerns that the Russians believe the treaty could be used to limit our missile defense. We should have removed this clause from the preamble.

The message sent by the first part of this amendment is positive, but it is not conveyed to the Duma. When we look at the fact—I understand why the proponents of this treaty would not want to transmit this aspect of the treaty to the Duma for fear of some backlash and perhaps problems in the Russian Duma, although it is not a body that is renowned for its independence, to say the least. The fact is, it will not be transmitted to the Duma. The fact is, if the Russians and the United States agreed to a treaty and a part of that treaty was not transmitted to the Senate, I think that would be something to which most of us would take strong exception.

I thank Senator CORKER. He has worked extremely hard on this issue. JOE LIEBERMAN has worked extremely hard, trying to reach a point, obviously, that they could agree to support this treaty. Whether they eventually do or not is something that I neither know nor would predict, but I do think it shows some improvement. I still have various concerns, as I have had from the beginning, on the issue of defensive missile systems, how it would play, whether it is actually part of the treaty and, if so, how enforceable.

What complicates this more than anything else is the continued statements, public statements on American television a short time ago—Vladimir Putin saying that if we move forward with improving our missile defenses, they would take “appropriate actions.” Their Foreign Minister has made repeated statements—not last year but last month—saying one thing and publicly declaring it while on the other hand we are assuming this will prevent them from doing what they say they will do. That is a contradiction.

I understand how solemn treaties are, and I understand how binding treaties are. I also understand that when the leader of a nation says on “Larry King Live”—God bless you, Larry, for everything you did for us—that they will have to take “appropriate actions” if we improve quantitatively or qualitatively our strategic missile defense systems, then obviously you have to give some credence to that, when public statements are made. Obviously, in the view of Senator KERRY, who has done a masterful job in shepherding this treaty through the Senate in the last several days, that is not that meaningful. So we just have a fundamental disagreement of opinion. But I can say this: If we negotiated a treaty and made certain agreements and the President of the United States made public statements on national or international television contradicting that,

then I think it would give the party we are in negotiations with significant pause.

Not one statement that I have been able to find has a Russian leader—either Foreign Minister, Defense Minister, or Prime Minister or President—saying they will adhere to the provisions that are in this amendment. That is a fundamental contradiction that I am sorry cannot be resolved.

I know what the votes are going to be on this treaty. Again, I congratulate Senator KERRY for the incredible job he has done and, frankly, his great willingness to talk with me and negotiate with me and have dialog and work toward a common goal. He has done that in good faith, and I am grateful for the opportunity he has given me to play a role, including agreeing to this amendment which I think will improve the treaty.

I wish to say that I know how difficult this has been for Senator CORKER and other Members on this side.

I thank Senator LIEBERMAN for the continued hard work he does on this issue.

I urge my colleagues to support this amendment. I think it is very helpful.

With that, I yield to my colleagues, cosponsors of the amendment, if that is agreeable to Senator KERRY.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, Senator CORKER and I had a vote—actually, Senator CORKER, Senator MCCAIN, and I had a vote on whose name should be first on this, and Senator CORKER and I won, 2 to 1. Senator MCCAIN’s name is first because this is an amendment that attempts to deal in a unifying way with our concern that the Russians misunderstand the impact of this treaty or the impact of our development of missile defenses on this treaty and that it is important for us to speak out in unity, in a unified and clear voice, to the Russians, and no one has made that point more clearly as the treaty has been considered than Senator MCCAIN. In fact, he offered an amendment earlier in our deliberations on the treaty which I supported, which did not pass, which would have removed the section of the preamble that has obviously been put in by the Russians in the negotiations which is confusing at best and downright mischievous at worst.

This is the section that says:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

That is the end of the quote from the preamble. It strikes me as I read it that it will be a topic of consideration in law schools and classes on international law. The first question is, What did it mean? But I think the Russians had a particular intent in putting

it in there, and they know what they wanted it to mean.

What is troubling is that when the treaty was signed earlier in the year in Prague, the Russian Federation issued a statement that basically made these same points—that the treaty will be effective and viable only in conditions where there is no qualitative or quantitative buildup in the missile defense system capabilities of the United States of America.

But these are two separate categories. This treaty, the START treaty, is all about reducing the offensive capabilities, nuclear and delivery capabilities of both great powers. We are building a missile defense system. It started out as a very controversial matter. It started out a long time ago—President Reagan, really, initially, and then serious consideration in the 1990s when a lot of people argued against it and said it was a waste of money and it would never work technologically, that you couldn’t create a bullet that would hit a bullet. Yet that is exactly what we have done. Thank God that we invested the money and that our scientists and military leaders have brought it as far it is because one of the great threats that will face the people of the United States, our national security, will come from missiles carrying weapons of mass destruction fired particularly by rogue nations such as Iran and North Korea. It would be irresponsible of us not to have developed a capacity to defend against those kinds of missile attacks. We have done that.

The Russians keep wanting to link that to this treaty. It is not linked to the treaty. Therefore, I regretted that section was in the preamble I read. The United States responded through the State Department to that statement by the Russian Government when they signed the treaty. But it is really important for us, at the same time the instruments of ratification are conveyed to the Russian Government, to make a clear and direct statement of our understanding of the total nonrelationship between the development of our missile defense capability and the START treaty.

That is what this amendment does. I am privileged to cosponsor it with Senator MCCAIN, Senator CORKER, and a number of other Members of both parties. Basically, it says that before the New START treaty could enter into force, the President shall certify to the Senate—basically, this is certifying what the President said in a letter sent to Senator REID a few days ago—and at the time of the exchange of instruments of ratification shall communicate directly to the Russian Federation that, No. 1, we are going to continue development and deployment of a missile defense system to defend against missile threats from nations such as—and I would add “not limited to”—North Korea and Iran.

No. 2, what do we mean by qualitative and quantitative improvement

of such systems that we are going to be continuing? This is very important. We define that here to include all phases of the phased adaptive approach to missile defenses in Europe embraced now by our NATO allies; second, the modernization of the ground-based mid-course defense system; and third, the continued development of the two-stage ground-based interceptor as a technological and strategic hedge.

We are being as direct as we can be here to the Russians. Some of my colleagues have said—and the record, unfortunately, shows it—that their record for complying with treaties is not a good one. We don't want to enter into this one with any misunderstandings or covering up the truth. We are saying here loudly and clearly that the United States is going to continue to develop all of these different forms of missile defense to protect our security and that has nothing to do with this START treaty.

I think the third section here is very important. We say:

The U.S. believes that these systems [missile defense systems] do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the U.S. cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the [START] Treaty—

Which is the section that gives nations the right to withdraw under extraordinary circumstances—nonetheless, if we adopt this, when we adopt it, this amendment, we are saying here:

The United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the treaty.

We are trying to manage our relationship with the Russian Federation in a way that is conducive to the security of our country and the security of the world.

We disagree with the Russians on an awful lot of things, including human rights and values and freedom of the press—which the current government in Russia has so aggressively suppressed. So we want to be honest with them and direct with them and not enter into this important treaty with any illusions. I believe we have said that clearly. If it passes, it will be presented to the Russian Government directly.

I am very pleased we have a broad, bipartisan group supporting this. It is a unified way to conclude our deliberations here before we go to vote on ratification, and I urge my colleagues to support the amendment.

I thank the Chair and yield the floor to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I ask unanimous consent to add Senator BEGICH as a cosponsor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CORKER. Mr. President, I am thrilled to join with Senator MCCAIN and Senator LIEBERMAN in an amendment dealing with missile defense. This is a subject that has been discussed ever since this treaty was first presented.

I cannot think of a better way to end this debate. I thank Senator KERRY for having the patience of Job, having worked through this. Somebody mentioned deals and where they have been taking place. They have been taking place on the Senate floor. We have been working on this for a long time. We have gone through intelligence briefings. We have gone through incredible numbers of hearings. I think this has been done exactly in the right way.

I thank the Senator for his leadership. I thank Senator LUGAR for his leadership on nuclear armaments in general. The Senator has been pursuing that for years.

So we have before us an amendment on missile defense. Again, it has been discussed in great detail. This says three things. Senator LIEBERMAN certainly talked about much of the detail, but the President the other day sent us a letter declaring, in very strident ways, his commitment to both the phased-adaptive approach to missile defense, which will take place in Europe, and our ground-based interceptors. He has said that absolutely in strident terms.

What this amendment does is certifies to Congress—he certifies to Congress—that he is going to continue those efforts. He will continue those efforts on phased-adaptive approach and ground-based interceptors.

Second, we have been concerned about what Russia thinks as it relates to this treaty. When we exchange the instruments of ratification, when we exchange the documents when ratifying this treaty, they are going to be told that we, in fact, are continuing to pursue our missile defenses in every way possible, and that in no way affects our relationship from that standpoint as it relates to this treaty. I think that is incredibly strong.

Then, third, we have talked about this preamble, and every one of us knows the preamble is nonbinding. But as an understanding of this treaty going forward, we are telling the Russians that the preamble absolutely is not binding and that we are pursuing these missile defense applications that have been discussed. I am proud to join with Senator MCCAIN, with Senator LIEBERMAN, two people who care as deeply about our national security as anybody in the United States, certainly in this Senate. I am proud to have the other Members of the Senate who have joined in.

Let me just say in closing, I think it is absolutely appropriate that the last two amendments we address are the Kyl amendment which deals with modernization—the President has made incredible investments in modernization that have come about through this en-

tire process, a commitment to ensure that the nuclear arsenal we have is one that operates, that is reliable, that is safe.

I think people know we have 1,550 deployed warheads—after this treaty goes into effect, over a long period of time, we reduce to that number, but that we have roughly 3,500 other warheads that, again, will continue to be modernized and made available, if necessary.

So I want to say that in accepting the Kyl amendment and all of the things that have come with it—the letter from the appropriators and accepting this missile defense amendment—if that ends up being the case, and I hope it will be by unanimous consent shortly, I think what we have done throughout this entire process has strengthened our country's national security.

I can say: Look, this is called the New START, but I could call this the Missile Defense and Nuclear Modernization Act of 2010 because all of these things have come into play to make our country safer. I want to thank the chairman. I want to thank the administration for walking through, over the last 6 months, and helping us cross t's and dot i's. I think this treaty is good for our country. I think this treaty enhances our national security. I thank the chairman for the way he has worked with us to get it into that position, certainly Senators MCCAIN and LIEBERMAN for helping take the lead on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 4922 TO AMENDMENT NO. 4904

Mr. KIRK. Mr. President, I have a second-degree amendment at the desk, No. 4922.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. KIRK] proposes an amendment numbered 4922 to Amendment No. 4904.

Mr. KIRK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide an additional understanding regarding the December 18, 2010, letter from President Obama to the Senate regarding missile defense)

On page 2, after line 19, add the following:

(2) MISSILE DEFENSE.—It is the understanding of the United States that the advice and consent of the Senate to the New START Treaty is subject to the understanding, which shall be transmitted to the Russian Federation at the time of the exchange of instruments of ratification, stated in the letter transmitted by President Barack Obama to the Majority Leader of the United States Senate on December 18, 2010, the text of which is as follows:

THE WHITE HOUSE,

Washington, December 18, 2010.

Hon. HARRY M. REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

DEAR SENATOR REID: As the Senate considers the New START Treaty, I want to

share with you my views on the issue of missile defense, which has been the subject of much debate in the Senate's review of the Treaty.

Pursuant to the National Missile Defense Act of 1999 (Public Law 106-38), it has long been the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack, whether accidental, unauthorized, or deliberate. Thirty ground-based interceptors based at Fort Greely, Alaska, and Vandenberg Air Force Base, California, are now defending the nation. All United States missile defense programs—including all phases of the European Phased Adaptive Approach to missile defense (EPAA) and programs to defend United States deployed forces, allies, and partners against regional threats—are consistent with this policy.

The New START Treaty places no limitations on the development or deployment of our missile defense programs. As the NATO Summit meeting in Lisbon last month underscored, we are proceeding apace with a missile defense system in Europe designed to provide full coverage for NATO members on the continent, as well as deployed U.S. forces, against the growing threat posed by the proliferation of ballistic missiles. The final phase of the system will also augment our current defenses against intercontinental ballistic missiles from Iran targeted against the United States.

All NATO allies agreed in Lisbon that the growing threat of missile proliferation, and our Article 5 commitment of collective defense, requires that the Alliance develop a territorial missile defense capability. The Alliance further agreed that the EPAA, which I announced in September 2009, will be a crucial contribution to this capability. Starting in 2011, we will begin deploying the first phase of the EPAA, to protect large parts of southern Europe from short- and medium-range ballistic missile threats. In subsequent phases, we will deploy longer-range and more effective land-based Standard Missile-3 (SM-3) interceptors in Romania and Poland to protect Europe against medium- and intermediate-range ballistic missiles. In the final phase, planned for the end of the decade, further upgrades of the SM-3 interceptor will provide an ascent-phase intercept capability to augment our defense of NATO European territory, as well as that of the United States, against future threats of ICBMs launched from Iran.

The Lisbon decisions represent an historic achievement, making clear that all NATO allies believe we need an effective territorial missile defense to defend against the threats we face now and in the future. The EPAA represents the right response. At Lisbon, the Alliance also invited the Russian Federation to cooperate on missile defense, which could lead to adding Russian capabilities to those deployed by NATO to enhance our common security against common threats. The Lisbon Summit thus demonstrated that the Alliance's missile defenses can be strengthened by improving NATO-Russian relations.

This comes even as we have made clear that the system we intend to pursue with Russia will not be a joint system, and it will not in any way limit United States' or NATO's missile defense capabilities. Effective cooperation with Russia could enhance the overall effectiveness and efficiency of our combined territorial missile defenses, and at the same time provide Russia with greater security. Irrespective of how cooperation with Russia develops, the Alliance alone bears responsibility for defending NATO's members, consistent with our Treaty obligations for collective defense. The

EPAA and NATO's territorial missile defense capability will allow us to do that.

In signing the New START Treaty, the Russian Federation issued a statement that expressed its view that the extraordinary events referred to in Article XIV of the Treaty include a "build-up in the missile defense capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear potential of the Russian Federation." Article XIV(3), as you know, gives each Party the right to withdraw from the Treaty if it believes its supreme interests are jeopardized.

The United States did not and does not agree with the Russian statement. We believe that the continued development and deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation, and have provided policy and technical explanations to Russia on why we believe that to be the case. Although the United States cannot circumscribe Russia's sovereign rights under Article XIV(3), we believe that the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and viability of the New START Treaty, and therefore would not give rise to circumstances justifying Russia's withdrawal from the Treaty.

Regardless of Russia's actions in this regard, as long as I am President, and as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States, our deployed forces, and our allies and partners. My Administration plans to deploy all four phases of the EPAA. While advances of technology or future changes in the threat could modify the details or timing of the later phases of the EPAA—one reason this approach is called "adaptive"—I will take every action available to me to support the deployment of all four phases.

Sincerely,

BARACK OBAMA.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, on the basis of rule XXII and the question of timely filing, I would object to this amendment being considered.

The PRESIDING OFFICER. The point of order is well taken. The amendment falls.

Mr. KIRK. Mr. President, am I allowed to be heard on the point of order?

The PRESIDING OFFICER. There is no debate on a point of order.

Mr. KIRK. Roger that.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I do not want the Senator to not have an opportunity to be able to speak to this. I think he should be able to. He certainly has that right in the context of his time. I will not speak very long at all.

I want to thank the Senator from Arizona, my long-time friend, for his very generous comments. I appreciate them personally. But also I thank him for his willingness, under some circumstances that I know were tough for him, in terms of how a lot of this played out. He nevertheless sat with me, worked through these issues, and

obviously I wish we had been able to reach an agreement sometime earlier, but I am glad he is there now on this amendment. I am glad we are able to accept it.

I thank Senator CORKER who has been a straight dealer throughout all of this—no histrionics, no politics. I think he has really seen his responsibilities on the Foreign Relations Committee in the best way and has studied and thought and worked at and tried to find a way to solve a problem, not create a problem. So I thank him for that approach to this treaty.

I think this amendment, if I can say—I mean, I was here in the Senate. I remember debating the first proposal of President Reagan with respect to missile defense, which then was called the SDI, the Strategic Defense Initiative, and became what we called Star Wars back then. We have traveled a long distance since then. The world also has changed significantly since then.

We no longer live in that sort of bipolar East-West, Soviet-U.S.-dominated world. We are living in a multipolar, extraordinarily complicated and significantly changed world in the context of the threats we face. The threats we now face, particularly of a rogue state, or of the possibility of a terrorist group stealing or putting their hands on some loosely guarded materials and/or weapons, those are possibilities that are real. We need to deal with this different kind of threat.

I believe the President of the United States has been pursuing a plan, building on what previous administrations have done; that is, pursuing the right kind of approach to try to figure out: How do we make all of us safer? Our hope is that the Russians will understand this is not directed at them. This is directed at how we together can build a structure in which all of us can share in a way that forces the Iranians and North Koreans and others to understand the futility, indeed the counter-productivity of the direction in which they are moving.

So I think this is a good amendment to embrace within the instrument of ratification what the President is doing anyway, what the administration has been committed to doing anyway. I personally do not think it was necessary—in order to achieve an appropriate understanding of where the administration is going—but to whatever degree it gives Senators the ability in the advice and consent process to believe that we are appropriately putting Russians on notice as to this course we are on, I think it reinforces what the President has already done and said. I do not think they should view it as something new or as an aberration from any course that we have been on. I certainly do not view it that way.

I am confident they will see that we can build on this treaty in a way that we share in the future strategies, analyses, perhaps even technologies in the long run that will make all of us safer

and ultimately provide all of us with the ability to deal with the realities of a nuclear world. Our goal is to make us safer, and we believe this helps us do that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I join with the sentiments just expressed by the chairman. I very much appreciate the statements made by Senator MCCAIN, Senator LIEBERMAN, and my colleague on the Foreign Relations Committee, Senator CORKER, who has worked diligently throughout the hearings, the markup, and this debate.

I ask unanimous consent to be added as a cosponsor to the amendment that they have offered, 4904, as modified.

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

The Senator from Alabama.

Mr. SESSIONS. Just briefly on the remarks about the missile defense, I have served as chairman of the Strategic Forces Subcommittee and ranking member and have been involved in it for quite a few years. I think the language affirms the continued development of the two-stage, ground-based interceptor. Then, I guess, I accept the language that says "as a technological and strategic hedge."

But I would just say to my colleagues, the reason we are at this point is because, during the negotiations with the Russians concerning the New START treaty, the administration, responding to Russian objections about missile defense—which were so unfounded and I could never fathom—the administration agreed, in September of last year, unilaterally, and to the utter surprise of Poland and the Czech Republic, to cancel the planned two-stage GBI that was to be deployed in 2016 in Poland.

It was a great embarrassment to our allies. They had been negotiating with us for many years on this project. They had stood firm for it, and the administration then promised this phase four SM-3 Block 2B. But it was not on the drawing board, not under development, and cannot be completed until 2020 if we as a Congress fund it over that decade. The President certainly will not be in office at that time. So I am uneasy about this whole matter of missile defense.

I think the administration made a colossal error in giving up on the planned two-stage strategic policy. But this language is better than no language. I thank my colleagues for moving forward with it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I know the Senator from North Dakota wants to speak on this a little bit. I thought we might, if he was willing—we could accept the amendment and then the Senator would have an opportunity to speak.

Mr. President, we are prepared to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4904), as further modified, was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, we have an understanding—while it is not a unanimous consent request yet, we have an understanding with Senator KYL that is the last amendment. We are waiting for the agreed-upon language from both leaderships in order to arrive at a time for the vote. It is our understanding that other issues that were part of the equation of when that vote might take place have been resolved. So, as a result, I think Senators can anticipate that, hopefully, sometime soon that unanimous consent request will be propounded.

Until then, Senators are free to talk on the treaty and I look forward to their comments.

Can I say one word, Mr. President? I apologize.

Earlier when I was thanking folks, I meant to, and I neglected to because I jumped over to thank Under Secretary of State Ellen Tauscher.

As we all know, she was a Member of the House, spent a lot of time on separate issues. In fact, she chaired one of the subcommittees of the Armed Services Committee. She logged a lot of miles and worked her heart out to assist in the evolution of this treaty. She has, as we all know, been fighting cancer. She just recently had cancer surgery. We wish her well in her recovery and express our gratitude to her for her work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I thank the Senator from Massachusetts and Senators MCCAIN and LIEBERMAN.

There are probably still some folks making up their minds on this treaty. I think most people have debated this at length and discussed it at length off the floor.

Our side has raised a number of questions. We have tried to cross every t and dot every i. This has been done in a very methodical way. I thank the chairman for the way he has worked with us. I thank Senator LUGAR for his longstanding leadership in this regard. I thank the administration officials who have absolutely bent over backward to try to solve every problem that has come up. The administration has not only solved problems for people who might vote for the treaty, they have tried to solve problems for people who they know will not vote for the treaty. We have some Members on our side who I know are still making up their minds. I have been involved in this for a long time. I enjoyed this. I think this is an incredibly serious matter.

I have two daughters and a wife I love. National security is something that is important to all of us. None of us wants anything bad to happen to this country. But to my friends on this side of the aisle who still may have

some questions, there is no way in the world we would have the commitments we have on nuclear modernization if it were not for the process of this treaty. Now with Senator KYL's amendment being accepted, we are even fast-tracking that. There is no way in the world the unilateral statements that are going to be presented to Russia are going to be made regarding missile defense would be occurring without this treaty being in place. I don't think there is a person in the world who has debated seriously whether 1,550 warheads being deployed in any way affects this country's national security.

To those of you who may still be wavering, I believe every issue that has been raised has been answered strongly and legitimately. We have put forth what our posture is on nuclear armaments more clearly than we have done in recent times. I hope people will come to the same conclusion, that this is good for the country.

I thank all those who have allowed me to be involved the way that I have. I urge support, whenever the vote occurs, for a treaty that I believe absolutely makes our country safer. With all these accommodations, at some point, it seems that the right thing to do is to say yes to yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, there has been a great deal of discussion about modernization this morning. I have listened to much of it and was not going to come to the floor, but I do want the record to show clearly what the numbers are on modernization. It is important to the future for us to understand what has been done and what is being done and what will be done.

I chair the Appropriations Subcommittee that funds nuclear weapons activities. I have spoken about this previously. It is very important going forward that we all understand what not only this administration but the previous administration has proposed with respect to modernization. I agree with my colleague from Kentucky. It is encouraging, at the end of this debate, that two bipartisan amendments represent the conclusion of this very important debate. We often debate things that are of lesser importance or of greater importance and sometimes don't always see the difference between the two. But this is one of those cases where if we ratify the START agreement today, when all is said and done, more will have been done than said. That is very unusual in a political body.

When I say "more will have been done than said," it is so unbelievably important to try to reduce the number of nuclear weapons and to stop the spread of nuclear weapons. But there is a subtext to all the other things we have discussed, which is why I want to put in the record the funding for the nuclear weapons issues. That subtext is money, money related to national security. We are a country with a \$13

trillion debt. Modernization is expensive. Yet it relates to our national security. National missile defense, which we have heard a lot about, is very expensive. I understand that also relates to national security. But this issue of getting our debt under control and our fiscal policy under control is just as much a part of the national security interests of this country.

The subtext to these discussions—modernization, missile defense—is about funding as well and getting this country's economic house in order.

Let me mention the issue of nuclear weapons modernization. In fiscal year 2010, we were spending \$6.3 billion on the modernization program on nuclear weapons activities. In fiscal year 2011, it went to \$7 billion, up 10 percent—so a 10-percent increase for the nuclear weapons activities in President Obama's budget request. That 10-percent increase was unusual because most accounts were flat or some had cuts. But nuclear weapons got a 10-percent increase. The proposal for 2011, a \$600 million increase but \$7 billion total, was actually short-circuited and put in the continuing resolution. All the other funding in the CR is flat funding from the previous year. But the funding for the nuclear weapons programs at 10 percent higher was put into the CR. Those programs and those programs alone get the higher funding. That \$7 billion was not all that was to be spent. Another \$4 billion emerged. I heard about that on the radio while driving in North Dakota, that another \$4 billion had been put into this pot for modernization. The additional funding from the 1251 report, which was produced in the fall, means 2012 funding would go from \$6.3 billion in 2010, \$7 billion in 2011, to \$7.6 billion in 2012. That is a \$1.2 billion increase in 2 years.

Linton Brooks, the fellow who ran the National Nuclear Security Administration and who did a good job in that role, said:

I would've killed for this kind of budget.

He is referring to \$1.2 billion increase and two 10 percent increases, while much of the other budget was flat. We are talking about \$85 billion for the next decade on these weapons activities, an increase of \$8.5 billion in the next 5 years over what was portrayed in the 2010 budget. We are talking about a lot of additional money that has been committed. It shows a commitment to build two nuclear facilities that were discussed earlier. I want to mention them because it is important to understand what we are doing, the uranium processing facility at the Y-12 production complex and the chemistry and metallurgy research replacement facility at Los Alamos. There were moneys in the 2012 budget in construction funds for these two facilities, not as much as some would want in the Senate. But the fact is, the design of these two facilities is only 45 percent complete. We don't fund things that are 45 percent designed. To come

out here and say we ought to be providing robust funding for buildings that are not even designed just makes no sense. Why, NNSA can't have confidence in its funding needs until it reaches about a 90-percent design point and that will be in 2013.

I listened this morning to this discussion and I think what the chairman has done and what Senator KYL has done in reaching an agreement is fine. But I want the record to show that this administration has proposed robust increases in 2010, 2011, 2012, and for a 5-year period in these modernization accounts, life extension programs—robust increases. Even that is not enough for some. They want to put money into buildings that are not yet designed. That doesn't make much sense to me.

My point is, when we add up all of this, the subtext is how are we going to pay for it. Because it is easy to talk about authorizing, to talk about appropriating. The question is, Where does the money come from at a time when we are borrowing 40 cents of everything we spend in this government? The subtext of money and debt is also a significant part of this country's national security. If we don't get our fiscal house in order, all these debates will pale by comparison. We can't lose our economy and have a future collapse of the economy because the rest of the world has very little confidence in our ability to make smart decisions. We can't risk all that and believe we are going to be a world economic power moving forward. If we are going to remain a world economic power—and we can, and I believe we will—it will be because we start making some smart, tough, courageous decisions. That is more than just calling for more money, more spending, which was most of this morning's discussion.

I don't object to the amendment. My colleagues have raised important issues. But it is important to understand we have made great progress on the modernization funding programs in the past months, and this administration has moved very aggressively to meet those needs and meet those concerns. That is important with respect to the public record.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I have given a lot of thought to the treaty, and having been involved in missile defense and nuclear issues serving on the Strategic Forces Subcommittee of Armed Services, as ranking member and chairman, many of the provisions in the treaty are acceptable and should pose no threat to our national security. But considered as part of the administration's stated foreign policy and strategic policy and in relation to the reality of the world situation today, I do not believe the treaty will make us safer. I think that is a good test.

I disagree with my colleagues who are overly confident that this is going to make the world safer. I believe the

treaty, for that reason, should be rejected.

Some say a defeat for the treaty would harm the United States. I think the entire world would see the Senate action as a resurgence of America's historical policy of peace through strength and a rejection of a leftist vision of a world without nuclear weapons. The negotiating posture statements and actions of Russia indicate it is regressing sadly into an old Soviet mindset as it views the outside world. This is disappointing and indicative of anything but the positive reset we hope to achieve with them. It is extremely important for Russian and U.S. security and world security, that Russia sees its role as a positive force for peace and security. These negotiations, however, show the face of the old Soviet Union. They have been so relentless in the way they have negotiated.

Negotiations with any mature power, especially Russia, are difficult and serious. This administration began with a naive expectation that a treaty could be quickly achieved that would show their leadership towards peace and a nuclear-free world. The Obama administration wanted to set an example for other nations to reduce their nuclear weapons towards a world without any nuclear weapons. We have heard this leadership and this setting of an example theme repeatedly from the President and the administration. But Russia has not the slightest interest in such vague concepts, nor in eliminating all nuclear weapons. They have no idea or intention ever of relinquishing nuclear weapons. They are focused on their own national interest, on coming out ahead in the negotiations for military, political, psychological, and hegemonic reasons.

It seems clear to me that Russia got what it wanted and President Obama got a treaty paper which strategically means very little but can be touted as a victory for peace.

So this is what I have concluded during this debate—and the debate has been helpful—the debate has caused me to think through a good bit of this. A longer debate at a different time of the year, I think, could have helped all of our colleagues. I do not believe the success in negotiation of the treaty will in any way make the Russians more cooperative, as the administration has repeatedly suggested.

Russia has been inconsistent at best in helping the United States with the danger of nuclear Iran and North Korea—the gravest threats to peace in the world, with military action being undertaken against our ally, South Korea, in recent weeks, and with the real possibility of an attack on Iran's nuclear weapons that, hopefully, can be avoided.

Why has Russia not been more cooperative? They blocked a resolution condemning North Korea Sunday in the U.N. Russia attacked Georgia, a sovereign nation, and continues to occupy Georgian territory. This shocking act

of aggression condemned by independent bodies goes without any real U.S. response. Georgia is a pro-American, free market, independent nation whose attack was calculated and deliberate.

Russia continues to work to undermine the pro-Western democracy movement in the Ukraine. They continue a host of actions that evidence a long-term plan to effect a real or de facto reabsorption of these three nations into what was the old Soviet Union.

So these ominous trends, it seems to me, have not been seriously considered throughout this quest for the treaty. The events do not give me confidence that the treaty, therefore, is a positive step for the United States, the world, or for peace.

Secondly, as I noted, and I will not go into detail now, the administration conceded the two-staged, ground-based interceptor site that would have been established in Poland, that would provide redundant protection to the United States from an Iranian missile and protected virtually all of Europe from an Iranian missile. That was given away unilaterally by the administration without prior warning to our allies in Poland and the Czech Republic. They heard about it in the paper. They realized the United States had gone behind them, our allies, and made a deal with the Russians. It was a very unfortunate event, indeed.

The plan that has been talked about—the fourth phase of the SM-3 Phased Adaptive Approach—is not even on the drawing board and is unlikely to actually survive. It would be difficult to see it surviving in five different budget cycles over the next 10 years it would take to develop that system. We walked away from one that could be deployed soon.

I offered a sense-of-the-Senate resolution to make clear the Senate does not concur in an ill-conceived vision of the administration that would move us to a world without nuclear weapons. I thank Senators KYL, LEMIEUX, CORNYN, CHAMBLISS, and INHOFE for cosponsoring the amendment. While I will not insist on a vote at this hour, this matter will be a significant subject for the future.

Thirdly, I would suggest the treaty is promoted as a step towards a world free of nuclear weapons. This is a fantastical idea that goes beyond insignificance, it is dangerous. Basing any policy, especially a nuclear policy, on an idea as cockamamie as zero nuclear weapons in the world can only lead to confusion and uncertainty. Confusion and uncertainty are the polar opposites of the necessary attributes of security and stability. These are the essentials of good strategic policy: security and stability.

Thus, the Obama policy creates a more dangerous world. Some say the President's zero nukes policy is just a distant vision, some vague wish, so don't worry. The situation would be

much better if that were so, but it is not. President Obama has made zero nuclear weapons a cornerstone of our defense policy. It has, amazingly, already been made a centerpiece of our military policy, being advanced by concrete steps today. Presidents, Commanders-in-Chief, have the power to make such monumental changes in policy, and this President is certainly doing so.

The change is seen most seriously in the critically important Nuclear Posture Review produced in April 2010 by the Defense Department. This document is a formal document produced by the new administration's Defense Department. The determination to pursue the zero nuclear weapons vision is seen throughout this review. Amazingly, there are 30 references in that document to a world without nuclear weapons.

The NPR begins with an introductory letter from Secretary of Defense Gates, the second sentence of which says this:

As the President said in Prague last year, a world without nuclear weapons will not be achieved quickly, but we must begin to take concrete steps today.

The Executive Summary further drives the issue home. The first sentence in the Executive Summary recalls that President Obama, in Prague, highlighted nuclear dangers and said:

The United States will seek the peace and security of a world without nuclear weapons.

The first sentence in the second paragraph of the NPR is particularly ominous and even chilling to me. Posture Reviews are defense reviews, and by their nature are bottom-up reports, driven by threat assessments and the requirements necessary to defend America. These reviews historically are objective analyses from experts, not political reports. The troubling line reads:

The 2010 Nuclear Posture Review (NPR) outlines the Administration's approach to promoting the President's agenda for reducing nuclear dangers and pursuing the goal of a world without nuclear weapons.

This statement reveals the whole truth. The NPR is the President's policy, sent from the top down, not the bottom up. Stunningly, the report lacks a clear focus on the only objective that counts: Securing a nuclear arsenal second to none that can, under any circumstances, deter attacks on and defend the United States and its allies.

Fourthly, the Obama vision of a world without nuclear weapons has not been well received. Indeed, the breadth of the criticism from experts and world leaders is noteworthy.

Two years ago, Congress adopted an amendment I proposed that called for a commission to review the strategic posture of the United States. It was bipartisan and chaired by former Secretaries of Defense Dr. William Perry and Dr. James Schlesinger. The commission powerfully dismissed the idea of a world without nuclear weapons. In somewhat diplomatic but clear and strong language, they said this:

The conditions that might make possible the global elimination of nuclear weapons are not present today and their creation would require a fundamental transformation of the world political order.

They went on to say this:

All of the commission members believe that reaching the ultimate goal of global nuclear elimination would require a fundamental change in geopolitics.

Maybe the Second Coming.

Others have dismissed this concept as a wild chimera. French President Sarkozy, from one of our European allies, France, said this:

It [our nuclear deterrent] is neither a matter of prestige nor a question of rank, it is quite simply the Nation's life insurance policy.

He made clear they had no intention of giving that up.

Secretary James Schlesinger, back when President Reagan was meeting in Reykjavik over nuclear issues, made this wise comment:

Nuclear arsenals are going to be with us as long as there are sovereign states with conflicting ideologies. Unlike Aladdin with his lamp, we have no way to force the nuclear genie back into the bottle. A world without nuclear weapons is a utopian dream.

Keith Payne, who served on this nuclear commission, writing recently in the National Review, said:

The presumption that United States movement toward nuclear disarmament will deliver nonproliferation success is a fantasy. On the contrary, the United States nuclear arsenal has itself been the single most important tool for nonproliferation in history, and dismantling it would be a huge setback.

Remember the commission.

Jonathan Tepperman, in Newsweek, said:

And even if Russia and China (and France, Britain, Israel, India, and Pakistan) could be coaxed to abandon their weapons, we'd still live with the fear that any of them could quickly and secretly rearm.

Gideon Rachman, in Financial Times, said:

The idea of a world free of nuclear weapons is not so much an impossible dream as an impossible nightmare.

William Kristol, writing in the Washington Post, in October, said:

Yet to justify a world without nuclear weapons, what Obama would really have to envision is a world without war, or without threats of war. . . . The danger is that the allure of a world without nuclear weapons can be a distraction—even an excuse for not acting against real nuclear threats. . . . So while Obama talks of a future without nuclear weapons, the trajectory we are on today is toward a nuclear—and missile-capable North Korea and Iran—and a far more dangerous world.

Others have also written about this.

David Von Drehle, writing in Time Magazine, said:

A world with nuclear weapons in it is a scary, scary place to think about. The industrialized world without nuclear weapons was a scary, scary place for real. But there is no way to un-ring the nuclear bell. The science and technology of nuclear weapons is widespread, and if nukes are outlawed someday, only outlaws will have nukes.

Kenneth Waltz, leading arms controller and professor emeritus of political science at UC Berkeley, said:

We now have 64 years of experience since Hiroshima. It's striking and against all historical precedent that for that substantial period, there has not been any war among nuclear states.

Importantly, the administration's planned further diminishment of our nuclear stockpile—further diminishing it from these numbers—and President Obama's hostility to the utility of nuclear weapons generally has caused a great deal of unease among our non-nuclear allies. These nations are not so open about their concerns, but the problem is a very real one.

The American nuclear umbrella, our extended deterrence, has allowed our allies, free democratic nations, to remain nuclear free, without having nuclear weapons. But if the Obama policy continues, the Perry-Schlesinger report concludes real dangers may await:

If we are unsuccessful in dealing with current challenges, we may find ourselves at a tipping point, where many additional states conclude that they require nuclear deterrents of their own. If this tipping point is itself mishandled, we may well find ourselves faced with a cascade of proliferation.

The nuclear commission—President Obama appointed a number of the Members on the Democratic side—said that if our allies who feel they have been protected by our nuclear umbrella become uncertain, we could be faced with a cascade of proliferation. Is that what we want? I know the President wants nonproliferation. I know that is what he wants. I am not attacking his goal. Throughout my remarks, I am raising the question of whether these goals will be furthered by the actions of this treaty and these policies or whether they will not.

One final concern. The administration has made it clear that this treaty's nuclear reductions are just the first step in a long march to a nuclear-free world. Assistant Secretary Rose Gottemoeller, who negotiated the treaty, said in April:

We will also seek to include non-strategic, non-deployed weapons in future reductions.

Assistant Secretary of Defense for International Security Affairs and former Ambassador Alexander Vershbow a few weeks ago said that the administration, in follow-on talks, will seek further reductions in strategic, nondeployed, and nonstrategic weapons. And the President has said that repeatedly.

We Senators, in the end, only have our judgment. My best judgment tells me that if our weapons fall too low in numbers, such an event could inspire rogue and dangerous lesser nuclear powers to seek to become peer nuclear competitors to the United States—a dangerous event for the entire world. Thus, I must conclude that the Obama plan is to diminish the power and leadership of the United States. Carefully read, this is what the goal does. I think this conclusion cannot be disputed. The leader of the one nation that has been the greatest force for freedom and stability in the world, with our large nu-

clear arsenal, is displaying a naivete beyond imagining.

Since this treaty is a calculated step in the President's plan to achieve dangerous and unacceptable policies, this treaty must not be ratified. The treaty and the policy behind it must be rejected.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. We are shortly going to propound a unanimous consent request. I have been saying that a couple of times now, but we really are shortly going to do it. There are several Senators who wish to speak. I would like to see if we could set up an order for them.

I ask unanimous consent that the Senator from Washington proceed for 10 minutes, then the Senator from Texas for up to 10 minutes, then the Senator from North Dakota for 5 minutes. I ask unanimous consent also that each of those Senators would allow the interruption for the propounding of the unanimous consent request if it comes during the time they are speaking.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

#### DEFENSE LEVEL PLAYING FIELD ACT

Mrs. MURRAY. Madam President, I rise this afternoon to call on the Senate to move and pass H.R. 6540, which is the Defense Level Playing Field Act, a bill which was passed overwhelmingly by the House of Representatives yesterday.

This is a bill that is identical to a bipartisan provision I have introduced here in the Senate with Senators BROWNBACK, CANTWELL, and others from States that know the value of American aerospace. It is a bill that will require the Pentagon to take into account illegal subsidies to foreign companies in our country, and that will finally deliver an even playing field in our procurement process.

But above all, this is a jobs bill. It is about protecting skilled, family-wage jobs, manufacturing jobs, and engineering jobs—jobs with technical skills and expertise that are passed down from one generation to the next; jobs that not only support our families during a very difficult economic time but are also helping to keep our communities above water. These are jobs in communities in Kansas, in Connecticut, in California, and in my home State of Washington. They are jobs that support small businesses, they pay people's mortgages, and they create economic opportunity. These jobs right now are at risk. Why? Because of illegal subsidies that undercut our workers and create an uneven playing field for America's aerospace workers.

This is a commonsense, straightforward way to protect American aerospace jobs from unfairly subsidized Eu-

ropean competition. It is a bill that specifically targets a major job-creating project—the Air Force's aerial refueling tanker contract—as a place where we can begin to restore fairness for our aerospace workers. This bill says that in awarding that critical tanker contract, the Pentagon must consider any unfair competitive advantage aerospace companies have, and there is no bigger unfair advantage right now in the world of international aerospace than launch aid.

As my colleagues may know, launch aid is direct funding that has been provided to the European aerospace company Airbus from the treasuries of European governments. It is what supports their factories and their workers and their airplanes. It is what allows them to price their airplanes far below those that are made here in the United States and still turn a profit. It is what allows them to literally role the dice and lose on a product and what separates them from American aerospace companies, such as Boeing, that bet the company on each new airplane line they produce. In short, it is what allows them to stack the decks against American workers.

In July of this year, the World Trade Organization handed down a ruling in a case that the United States brought against the European Union that finally called launch aid what it really is: a trade-distorting, job-killing, unfair advantage. That is what the WTO said. It is one of our Nation's most important trade cases to date. The WTO ruled very clearly that launch aid is illegal, it creates an uneven playing field, it has harmed American workers and companies, and it needs to end.

Specifically, the WTO found that European governments have provided Airbus with more than 15 billion Euros in launch aid, subsidizing every model of aircraft ever produced by Airbus in the last 40 years, including, by the way, the A330—the very model they are now putting forward in the tanker competition. The WTO ruled that France and Germany and Spain provided more than 1 billion Euros in infrastructure and infrastructure-related grants between 1989 and 2001, as well as another billion in share transfers and equity infusions into Airbus. They ruled that European governments provided over 1 billion in Euros in funding between 1986 and 2005 for research and development directed specifically to the development of Airbus aircraft. In fact, the Lexington Institute states that launch aid represents over \$200 billion in today's dollars in total subsidies to Airbus.

Launch aid has very real consequences. It has created an uphill battle for our American workers and American aerospace as a whole. Because of launch aid, our workers are now not only competing against rival companies, they are competing against the treasuries of European governments. At the end of the day, that has

meant lost jobs at our American aerospace companies and suppliers and the communities that support them.

I have been speaking out against Europe's market-distorting actions for many years because I understand that these subsidies are not only illegal, they are deeply unfair and anti-competitive.

My home State of Washington is, of course, home to much of our country's aerospace industry, and I know our workers are the best in the world. On a level playing field, they can compete and win against absolutely anybody. But, unfortunately, Airbus and the European Union have refused to allow fair competition. Instead, they use their aerospace industry as a government-funded jobs program, and they use billions in illegal launch aid to fund it.

So let me be clear about one thing. The objective of this bill that was passed overwhelmingly by the House of Representatives yesterday is not to limit competition; it is to make sure everyone can compete on a level playing field. Airbus has made it clear they will go to any lengths to hurt our country's aerospace industry. We need to make it clear we will take every action to stop them because this is not only about the future of aerospace; it is about jobs right now that will help our economy recover. In fact, as we look at ways to stimulate job growth and keep American companies innovating and growing, we shouldn't look any further than this bill.

This bill is a commonsense policy. It makes sure U.S. Government policy translates to Pentagon policy because the fact is that the U.S. Government, through our Trade Representative, has taken the position that Airbus subsidies are illegal and unfair. Yet, on the other hand, the U.S. Department of Defense is ignoring that position as we look to purchase a new tanker fleet, and that does not make any sense—not for our country, not for our military, and certainly not for our workers. The WTO made a fair decision. Airbus subsidies are illegal and anti-competitive. Now the Department of Defense needs to take that ruling into account.

When I go home and talk to our aerospace workers in Washington State, I want to be able to tell them we have evened the stakes. I want them to know their government is not looking the other way as policies continue to undercut their jobs and their opportunities. I want them to know that while they are working to secure our country by producing the best airplane in the world, their government is doing everything it can to make sure fair opportunities are there that will keep them on the job.

It is time to take these job-killing subsidies into account. It is the right thing to do for our workers, for our economy, and the future of our aerospace industry.

UNANIMOUS CONSENT REQUEST—H.R. 6540

So I ask, as if in legislative session and as if in morning business, unani-

mous consent that the Senate proceed to the immediate consideration of H.R. 6540, which was received from the House and is at the desk; that the bill be read three times and passed; the motion to reconsider be laid upon the table with no intervening action or debate; and any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alabama.

Mr. SESSIONS. Madam President, I appreciate the loyalty of my colleague from Washington for the Boeing facility that is there. I just want to say that other workers are involved, including 48,000 new jobs that would be created if the plant in Alabama were to be the one selected in this competition.

As a member of the Armed Services Committee, I would note that we voted a number of years ago unanimously to have a competition. There are only two companies in the world that can make this kind of aircraft. It is a commercial aircraft, not a highly sophisticated defense system such as a fighter. The EADS team committed to build that in America—bringing jobs not just to Alabama but jobs all over the Nation, far more around the Nation than just in Alabama—and to create a third major world aircraft facility. Congress asked that the bids be competitively let and that these two competitors be given a chance to submit the best proposal.

I am highly convinced that the EADS aircraft is superior—is larger, it is newer—and more effective in the role it is asked to fulfill.

Mrs. MURRAY. Madam President, I would just ask what the order is at this point.

The PRESIDING OFFICER. The Senator sought recognition after he objected.

Mrs. MURRAY. The unanimous consent agreement was that the Senator from Texas would proceed after I had yielded the floor, which I had not yielded.

The PRESIDING OFFICER. At this time, the Senator from Alabama was the only person who sought recognition.

Mrs. MURRAY. Madam President, I believe there was an agreement that the Senator from Texas follow my remarks.

The PRESIDING OFFICER. There was an order, but there was no objection. There was no one who sought recognition.

Mr. SESSIONS. I will wrap up, briefly, if I could.

Mrs. HUTCHISON addressed the chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. If the Senator from Alabama wants to finish his objection—

Mrs. BOXER. Mr. President, parliamentary inquiry: My understanding

is that the Senator from Washington had 10 minutes. My understanding is she had completed that 10 minutes; am I incorrect on that?

The PRESIDING OFFICER. Her time has expired.

Mrs. BOXER. I didn't hear the Chair say that. I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I ask the Senator from Alabama, I thought he was objecting on Senator MURRAY's time, and I was next in the unanimous consent. My question is, is he finished with his objection?

Mr. SESSIONS. I wish 1 additional minute to wrap up, if I could, and then I will yield the floor.

Mrs. MURRAY. Madam President, then I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SESSIONS. Madam President, I have the floor, I believe.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, after this competition has been going on for quite a number of years, and both parties have been very seriously competing for this contract, it is expected to be awarded in March of next year. The Defense Department has considered every one of these issues, including the WTO issue. The lawyers talked about it and we have talked about it in the Senate and the House.

At this very last minute, on the eve of awarding the competition, a House bill was passed without any debate. We have not discussed it or had a hearing on it. It should not be approved. I object.

I yield the floor.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. Madam President, we are asking for a level playing field with a bill that passed the House. This is a discussion we have had many times. It says that illegal subsidies from any company should be taken into account on a deal in front of the Pentagon.

I will stand anytime and fight for fairness and competition. I am sorry this has been objected to, because it meant our country would have a fair competition.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I rise to speak on the START treaty. I spoke on the floor Saturday stating my concerns about this treaty and the need to address a number of very important issues. I had hoped that amendments that had been offered would be able to clarify the position—the United States position—on this treaty.

I have listened to the debate. I have watched many amendments go down. The treaty supporters have said that these amendments are deal killers,

treaty killers. I disagree. I believe everybody has been sincere, but I am not persuaded that the Senate's role to advise and consent to treaties has successfully finetuned the understanding on our part, if we accept this treaty, nor the Russian positions—have they been clarified with our objections or disagreements with the Russian position.

I understand it would have made it hard for the administration to amend the text. But even amendments that would try to amend the preamble, or even the ratification resolution that would clarify the United States position, have caused me great pause. For instance, when we are talking about missile defense, former Secretary of State Condoleezza Rice, in a Wall Street Journal op-ed, said:

Russians tend to interpret every utterance as binding commitment.

She went on to write:

The Russians need to understand that the U.S. will use the full range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.

I am concerned that this treaty still has a lot of misunderstanding about the United States missile defense capability. I am concerned that our capability, with the understanding of Russians, would be restricted. Russia and the United States each have issued unilateral statements when they signed the New START that clarified their position on the relationship between START and missile defense. Russia stated:

The treaty can operate and be viable only if the United States refrains from developing its missile defense capabilities quantitatively or qualitatively.

I think we should state clearly in the resolution to ratify that it is not the position of the United States to place any limitations on missile defense. The President wrote a letter saying he disagreed with the Russian position and, yet, Senator McCain offered an amendment that would have stricken language in the preamble of the treaty that would have made it clear what the United States position was, and that amendment was not adopted by this body.

As we speak, I don't believe Russia is our enemy. This is a 10-year treaty. We don't know 10 years down the road how relationships might change. I believe our relationship with Russia is important, but there are rogue nations in the world that are hostile to the United States, which are working in earnest to get nuclear capability and possibly already have it, plus warheads to put those nuclear weapons on.

With the threat of a nuclear-armed Iran or North Korea, or Pakistan, which is our ally, which has a fragile government, or even Venezuela, which is working with Iran and is certainly within our hemisphere, it would be unthinkable to have any kind of miscommunication about the United States capability to control its own de-

fense capabilities. That is exactly what the Russian statement said we could not do.

U.S. planning and force requirements may have to change in the next 10 years and, frankly, I think they ought to be going forward right now to ensure that we can withstand any kind of warhead, nuclear or otherwise, that would come in from rogue nations.

That in itself is enough for me to say we have not fulfilled our responsibility under the Constitution for advice to the President on treaties. That is our solemn responsibility, and I do not think we have been successfully able to do that because we have been blocked on every amendment, calling them deal killers.

I think a strong New START is in our best interest. But I believe that this treaty does not address other areas of concern I have voiced as well. I believe this treaty could further be improved by increasing the number of type one and type two inspections, as was attempted by the Inhofe amendment that was defeated yesterday.

For instance, we know there are loose nukes that have come from Russian arsenals in the past, because the Russians have not had a clear control, or list of, or don't seem to be totally firm about where all of their arsenal is, and they don't seem to have the accountability. So the loose nukes, it has been reported, have shown up in other places, such as, for instance, North Korea. So I think verification becomes more important, to get a true idea of exactly what the Russians have, so there can be an accountability going forward to assure that whatever number are in whatever place would always stay the same, unless they are part of the drawdown.

I think the verification amendment Senator INHOFE had that was defeated would have improved our capability to understand exactly what was out there that might loosely go to Iran or North Korea, with whom the Russians have relationships, though we do not.

Former Secretary of State James Baker described the treaty's verification regime as weaker than its predecessor. I agree with his comment, and I hope we can improve the situation. To be fair, Secretary Baker supports the treaty. But he did recognize its shortcomings, and I think that should have been addressed by the Senate, without fear of what the Russians might say about our capability to defend against threats, not from Russia necessarily, other than the haplessness of not knowing for sure where your nuclear weapons are—I don't think Russia is our enemy. I want a relationship with Russia.

The missile defense we were not able to even clarify in the resolution of ratification causes me great concern. The verification not being as adequate as I think we need, and then the modernization, which we also address in other amendments, I think, are also problematic. I believe we must know our nu-

clear warheads could be used in the worst-case circumstance, because I think that is a deterrent.

Because of these things, I am going to vote no today on the ratification of the treaty. I think the Senate could have improved the understanding of this treaty. I think we could have strengthened it with real amendments that would have strengthened even what the President said in his letter to the Senate, saying that he disagreed with the Russian interpretation. But then when we tried to put that in writing, that didn't pass. So I believe we should not pass this treaty today. I think we can fulfill our responsibility for advice and consent and have a more bipartisan passing of the resolution. I think we need a good relationship with Russia. I think we need to protect, at all costs, the United States unilateral capability for missile defense for our country against other nations. I don't think Russia is a threat, but I do think rogue nations that have nuclear capabilities are. I think the symbiotic relationship between Venezuela and Iran is a very real threat to the United States. I think we need to start preparing more carefully about that.

I know my time is up. I appreciate the time to state my reasons for voting against this and hope that when it passes—which I think it will—we will be more firm in clarifying with the Russians our view of our national security interests.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. KERRY. Madam President, first, if I can interrupt for a moment before the Senator from North Dakota speaks, according to the prior order. I want to inform Senators that it is now 1:15. We are awaiting language which is forthcoming relatively soon on the 9/11 issue. I think it is the intention of the majority leader to vote very quickly after that unanimous consent agreement comes together. That means we could have a vote, conceivably, on the final passage of the resolution of ratification on the treaty somewhere—this is a guess—within the vicinity of 1:45 to 2 o'clock. That is a guess. Senator KYL I know wanted to speak prior to that taking place. We are trying to preserve that within the order. That said, I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, we expect to have the necessary papers to complete the consent agreement within the next 15 minutes. It is 1:15 now, so we hope by 1:30. Sometimes Senate time is not exactly right, but we are getting very close to being able to do this consent agreement. It has been typed. We are waiting for the papers to come from the Hart Building.

We want everyone to be patient. We know how anxious everyone is to complete the business of this Congress. Just everyone understand it should be not much longer.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I was not going to speak again, but I was prompted to by my colleague from Alabama, a friend and someone for whom I have great respect. The presentation by my colleague from Alabama suggested that President Obama is moving in the direction of disarming us, the implication is that of injuring our national security by proposing that we have fewer nuclear weapons. Let me make a point that I think is so important for the record.

I hope it is not now or ever considered a source of weakness for this country to aspire to have a planet with fewer nuclear weapons. It ought to be a source of strength that we understand it becomes our burden as a world leader—an economic leader and nuclear power—to try to reduce the number of nuclear weapons on this Earth.

This President has not proposed anything that would injure our national security. He is not proposing anything that is unilateral. He has negotiated and his team has negotiated a very strong arms reduction treaty with the Russians.

I know there has been great discussion about modernization, whether there is enough money, about why tactical nuclear weapons were not included, the issue of whether it limits us with respect to missile defense. All of those issues have been answered. All have been responded to.

The question, it seems to me, for us now and for all Americans, and particularly those who serve in Congress in the future, is will we be a world leader in pushing for a reduction in the number of nuclear weapons on this planet?

There are some 25,000 nuclear weapons on this planet. The loss of just one of those weapons, into the hands of a terrorist or rogue nation who might then explode it in a major city on Earth would change everything.

My colleagues are probably tired of hearing me say it, but in my desk I have kept a piece of a Soviet Union bomber, a very small piece of a wing strut from a Soviet Union bomber. We did not shoot it down. We negotiated that bomber down by paying money to saw the wings off.

Nuclear arms reduction treaties work. We know they work. There are Russian submarines that were not destroyed in battle. We ground them up and took them apart. The wings were sawed off bombers, and they were sold for scrap. Nuclear missiles in silos with nuclear warheads aimed at American cities are gone.

I will give an example. One was in Ukraine. Now sunflower seeds adorn that pasture where there was a missile with a nuclear weapon aimed at America.

We know these arms reduction treaties work because we have seen them work. Fewer nuclear weapons, fewer delivery vehicles, bombers, submarines, missiles—we know this works.

My colleague seemed to suggest that it would be a horrible thing if the entire world were rid of nuclear weapons. I hope that every Senator would aspire to have that be the case, a world in which there was not one weapon left, for almost surely every offensive weapon on this planet has always been used. We need to be very concerned about the number of nuclear weapons, the spread of nuclear weapons, the need, the desire for terrorists to acquire nuclear weapons. That is why these treaties and these negotiations on arms reduction are so unbelievably important.

Never has it been more important because now there is a new threat. They do not wear uniforms. They do not belong to one country. It is the terrorist threat. And they strive mightily to acquire nuclear weapons.

This treaty negotiated at the start by the previous President and concluded by this President, in my judgment, strengthens this country, represents our best national security interests.

I ask the question of anyone who believes that it is a threat for us to begin reducing nuclear weapons through arms negotiations with others who have nuclear weapons: Who, if not us, will lead the way to do that? If not us, who? Is there another country they think will aspire to provide leadership to reduce the number of nuclear weapons? If there is, tell us the name because we all know better than that.

This responsibility falls on our shoulders. We are the leading nuclear power on this Earth. It is our responsibility, it is this country's responsibility to lead. I don't ever want anybody to suggest it is some sort of weakness for this President or any President to engage in arms reduction negotiations. That is a source of strength.

This treaty was negotiated carefully. I was on the national security working group. We had briefing after briefing in top-secret venues. This treaty was carefully negotiated. It represents our best interests. It represents a reduction of nuclear weapons, a reduction of delivery vehicles and represents, in my judgment, another step in reducing the nuclear threat. It is not even a giant step, but it certainly is a step in the right direction.

This represents our best national security interests, and this President has demonstrated, yes, he wants a world with fewer nuclear weapons. He wants a world, as would I, with no nuclear weapons at some point. But this President would never allow negotiations or never allow circumstances in which this country is unarmed or unprepared or unable to meet its national security needs. He has not done that, not in this treaty, and will not do it in the future.

I did want to stand up and say that because of the comments earlier by the Senator who suggested there is some sort of weakness for a country that aspires to have a reduction of nuclear weapons on this planet.

Let me finally say, I have spoken at length on this floor about the severity

of losing even just one nuclear weapon. I have told the story about a CIA agent code-named Dragonfire who reported 1 month after 9/11 that a 10-kiloton nuclear weapon had been stolen from Russia and that nuclear weapon had been smuggled into New York City and was to be detonated. There was an apoplectic seizure in this town about it because no one knew what to do about it. They did not even notify the mayor of New York.

They discovered a month later that was probably not a credible piece of information. But as they did the diagnosis of it, they discovered it is plausible someone could have acquired a 10-kiloton nuclear weapon from Russia, it was plausible; if they had done that, they could have smuggled it into an American city and if terrorists did that they could have detonated it. Then we are not talking about 3,000 deaths, we are talking about 100,000, 200,000 deaths.

The work we have done in so many areas, the work in this administration, let me say, to secure loose nuclear materials, circumstances where plutonium or highly enriched uranium in the size of a liter or, in one case, in the size of a small can of soda, enough to kill tens and tens of thousands of people with a nuclear weapon—this is serious business. At a time when we debate a lot of issues—serious and not so serious—this is serious business.

I think the work that has been done by the chairman and ranking member in recent days—I watched a lot of this and watched it over this year—is extraordinary work. But so too is the work by this President, by the negotiators. My colleague described the folks at the State Department who had a significant role as well.

Let us not ever think it is a source of weakness to be negotiating verifiable reductions in nuclear weapons among those who possess them. That is a source of strength, and it is important for our kids and grandchildren who can succeed by continuing to do that with treaties that make the best sense for this country's national security interests.

I see the Senator from Massachusetts does not yet have a unanimous consent request, but I know all my colleagues are anxious to see one.

I yield the floor, and I expect, as the majority leader indicated, within the next half hour or so we will be voting, and I think that is good news. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

INTEREST ON LAWYER TRUST ACCOUNTS

Mr. MERKLEY. Madam President, I rise to discuss and ask unanimous consent for consideration of H.R. 6398. I

will get to the unanimous consent language in a moment, but right now I want to describe what this is about. Then I wish to yield to my colleague from Georgia to add a little bit of the impact of this issue.

The issue is this: In all 50 States in America, lawyers have to put clients' funds into trust accounts. Under the law, they are not allowed to earn interest on these accounts. Over time, an arrangement has been worked out whereby the banks pay interest, but it does not go to the clients; it goes to fund civil legal services for those who cannot afford those services.

This arrangement is in great jeopardy if we do not pass this bill today. I will expand on that jeopardy in a moment, but at this point I simply am going to yield to my colleague from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I thank the Senator from Oregon. This is very important work, and we are in our late hour. Sometimes we do our best in the late hour.

The unintended consequence of the Dodd-Frank legislation with regard to IOLTA is it not being extended and we are going to literally have thousands of escrow accounts held by law firms and attorneys, real estate transactions, dispute resolution transactions, and beneficial programs that will have to be spread among many more banks because the insurance level, which is now limited, drops to \$250,000. It would force the transfer of escrow account money out of any number of banks. At a time when capital is critical in small community banks, the unintended consequence might have been to take them below tier one capital requirements and put them in a stress situation.

I commend the distinguished Senator from Oregon for his work on this legislation. I thank the Senator from Louisiana, Mr. VITTER, for his consent for us to bring this forward. I give wholehearted support to the unanimous consent request.

I yield back to the Senator.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I appreciate so much the partnership of my colleague from Georgia. He has laid out clearly the impact of a failure to fix this legislation on our community banks where lawyers, exercising their fiduciary responsibilities, would have to move their trust accounts out of these special accounts where the interest goes to legal services and legal education and into no-interest-bearing accounts so that no one gains from that movement. In the course of it, they would be moving funds often from community banks to other institutions, imperiling these community banks.

I wish to address the other side of this issue, which is the important work these funds do in all 50 States. I will speak specifically to the State of Oregon, but there are parallels because

all 50 States participate with these accounts.

In Oregon, we have, first, the association of Oregon Legal Services Program, its primary source of civil legal assistance available to low-income Oregonians. To give a sense, if a woman is having a big challenge with domestic violence, she can get legal aid through this type of assistance. If a family is trying to struggle with a mistake on a foreclosure process so they can save their home, they can get assistance through this program. They have 20 offices throughout the State of Oregon to serve Oregonians living in poverty.

Second is the Juvenile Rights Project. This provides legal services to children and families through individual representation in juvenile court and school proceedings to help children who are in extraordinarily difficult circumstances.

A third is Disability Rights Oregon, the Oregon Advocacy Center, which assists those who are disabled, who are victims of abuse or neglect, or have difficulty acquiring health care or need to exercise their rights in regard to special education. They can turn to the Oregon Advocacy Center-Disability Rights of Oregon for help.

In addition, these funds pay for legal-oriented education for our K-12 students. Let me give an example of three programs in Oregon. These programs assist 15,000 students in our State.

One is the High School Mock Trial Competition. This type of mock trial competition is an enormous learning exercise for our students in how our courts function and how the facts of a case are presented and how the principles of law are applied.

Then we have the summer institute training for teachers so that social studies teachers can learn more about the role of law and be more effective in conveying that vision to our students.

Then I also want to mention the We The People Program on the Constitution and Bill of Rights. Here in this Chamber, we discuss the Constitution and the Bill of Rights virtually on a daily basis. Virtually every day on this floor, we discuss how these founding documents affect how our laws are applied and how freedoms are protected in the United States of America. This program helps our children learn those fundamental principles. Sort of the heart and spirit of the American democratic world are conveyed through this We The People Program.

I also wish to commend a whole host of banks in Oregon that have agreed not only to pay interest on these lawyer trust accounts—and IOLTA stands for interest on lawyer trust accounts—but to pay 1 percent, which is above the going rate on most types of transaction accounts. They do that because they benefit from the deposits, and they know their communities benefit from these services and these programs.

This legislation will resolve a problem in which lawyers, applying their fi-

duciary responsibilities, would have had to withdraw their funds from these accounts and put them in other non-interest-bearing accounts, to no benefit to anyone and to a great deal of harm to so many.

#### INTEREST ON LAWYERS TRUST ACCOUNTS

Mr. MERKLEY. Madam President, I ask unanimous consent, as if in legislative session and as if in morning business, that the Senate proceed to the immediate consideration of H.R. 6398, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6398) to require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts.

There being no objection, the Senate proceeded to consider the bill.

Mr. MERKLEY. Madam President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 6398) was ordered to a third reading, was read the third time, and passed.

Mr. MERKLEY. Madam President, I wish to thank the Chair and my colleague from Georgia who understood and presented so effectively the impact on our community banks that are working hard to get funds out to our Main Street businesses so we can create jobs and put our economy back on track.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I commend the Senator from Oregon and thank him for his help on this important issue for people all over the United States, not just in Oregon and Georgia but around the country. This is a great effort, and I commend him on it.

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

Mr. ISAKSON. Madam President, I wish to take an additional minute, if I might—the chairman of the Foreign Relations Committee is on the floor—to say, in addition to my statement I made 2 days ago in a speech on the floor with regard to the START treaty, that I wish to thank the chairman and the ranking member of the Foreign Relations Committee for the accommodating process from day one in April until today, where the treaty will ultimately pass on the floor of the Senate.

Legislation is about improving ideas and making sure the interest of the