

Soofer, Joel Breitner, Barry Walker, Deborah Chiarello.

SHARK CONSERVATION ACT OF 2009

Mr. REID. Mr. President, as in legislative session and in morning business, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 81 and that the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 81) to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

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

Mr. REID. Mr. President, I ask unanimous consent that the Kerry-Snowe amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this bill be printed in the RECORD.

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

The amendment (No. 4914) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 81), as amended, was read the third time and passed.

Mr. REID. Mr. President, it is my understanding that, the hour of 1:30 having arrived or shortly will arrive, we will recess pending the call of the Chair, is that right, until the closed session is completed?

The PRESIDING OFFICER. The Senator is correct.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess.

Thereupon, at 1:28 p.m., the Senate recessed subject to the call of the Chair and reassembled at 5 p.m., when called to order by the Presiding Officer (Mr. MANCHIN).

EXECUTIVE SESSION

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

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise in opposition to the New Strategic Arms Reduction Treaty that we call New START. I believe New START is deeply flawed and is a dangerous step toward undermining our national security. I

believe it does not strengthen verification or transparency of Russia's nuclear arsenal. We negotiated this treaty with Russia when our time may have been better spent focusing on nuclear threats posed by other nations. I believe the treaty is virtually unverifiable. Simply put, it is the wrong approach to both reducing the arms race and reaching the ideal of living in a nuclear-free world.

Many people have expressed the numerous shortcomings of this treaty. This evening I would like to touch on three.

First, New START restricts the future of our missile defense. President Obama campaigned against missile defense and has systematically cut funding for it. It should not be a surprise to anyone in America that the administration lacks commitment to a robust missile defense system, but that does not mean the Senate needs to support it. New START links offensive reductions with missile defense. I believe these must be decoupled. Why? The treaty limits launch vehicles and restricts the conversion of intercontinental ballistic missiles for missile defense purposes. Converting nuclear intercontinental ballistic missiles to conventional missiles is also restricted in the proposed treaty. Most egregiously, statements made by senior Russian officials insist that the treaty's language prohibits the United States from developing an antiballistic missile defense system without Russian consent. This is completely unacceptable.

Unfortunately, Russia is not the only threat the United States faces in this world. It is inconceivable that the administration would agree to a treaty that imposes such restrictions on our national security.

Secondly, we have reached the point where we cannot make reductions in our nuclear arsenal without viable plans for a strong, long-term strategy for modernization. Again, Russia is not our Nation's only threat. Without modernizing our nuclear arsenal, the cuts necessitated by the New START treaty would likely encourage Iran and other proliferators to build up their own arsenals rather than discouraging them as we would like.

The United States cannot maintain a credible deterrent or reduce the number of weapons in our nuclear stockpile without ensuring that we have reliable warning, command, and control systems, and that we put an emphasis on the land and sea-based delivery vehicles that give us the confidence we need for protecting ourselves should the worst occur. The reduction of our nuclear-capable bombers and land or submarine-based missiles from 1,600 to 700 gives the Russians an immense advantage. Delivery vehicles are just one aspect of our nuclear triad, but they are a critical component to being able to deter adversaries and should not be restricted under the New START treaty.

By some estimates, Russia maintains thousands more small tactical nuclear warheads that can be delivered by way of artillery shells, cruise missiles, and aircraft. Yet the treaty before us, which freezes missiles at 700 for each side, willfully ignores the massive Russian advantage in tactical weapons.

Finally, the most serious and immediate flaw is weakened verification requirements which are vastly less robust than those we had under START I. It is puzzling why they would do this. Under START I, 600 inspections were conducted. New START requires just 180 inspections over the life of the treaty, hardly enough to ensure Russian compliance. The Russians will be able to encrypt telemetry from missile tests. This makes it harder for us to know for certain what new capabilities the Russians are developing.

One might ask why did we agree to such. Under New START, there will no longer be onsite monitoring of mobile missile final assembly facilities. Before the expiration of START I, the United States used this monitoring or verification because satellites do not provide the exact information on mobile weapons systems. Verification requirements are too weak to reliably verify the treaty's 1,550 limit on deployed warheads. These measures will neither give us confidence in the process nor the assurances we need to assess the integrity of it.

Russia has a long history of nuclear duplicity or cheating. Yet New START has substantially weaker verification mechanisms than START I.

Perhaps the clearest reason to suspect the true motivations behind the treaty is the inexplicable rush to ratify it now. The shortcomings of New START are numerous, substantial, and serious. The Senate should have the time to examine the treaty's compliance provisions and ensure that loopholes are closed and deficiencies amended.

I believe the Senate has a responsibility to the American people to ensure that first and foremost our country's negotiations have not unilaterally hampered in any way our national security. I will not support subordinating U.S. national security to an untrustworthy partner, and neither should the Senate as a whole.

I yield the floor and 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. INHOFE. 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. 4833

Mr. INHOFE. Mr. President, it is my understanding in 45 minutes we are going to be having a couple votes, one on amendment No. 4833 and one on the Thune amendment No. 4841, having to do with delivery systems; mine having

to do with verification. That would mean we would have 45 minutes to talk about this.

We have already covered it pretty thoroughly. I think we need to have an understanding of what we are talking about in terms of verification.

There are only 180 inspections that are authorized by the New START treaty, and that is over a 10-year period. So we are talking about 18 per year versus the 600 inspections over 15 years in START I. If you do your math, that would be 40 a year in START I, and down to 18 a year in New START.

One of the arguments for that is that we have fewer sites to inspect, and for that reason we do not need to have as many inspections. I would disagree with that pretty strongly. One thing all the experts seem to have in common and agreeing to is that once you get down to fewer sites, the verification becomes more important.

John Bolton, on the 3rd of May, said: "while [verification is] important in any arms-control treaty, verification becomes even more important at lower warhead levels." I think they all agree. Brent Scowcroft said the same thing. He said: "Current force levels provide a kind of buffer because they are high enough to be relatively insensitive to imperfect intelligence and modest force changes. . . . As force levels go down, the balance of nuclear power can become increasingly delicate and vulnerable to cheating"—"to cheating"—"on arms control limits, concerns about 'hidden' missiles, and the actions of nuclear third parties."

So he is saying the same thing. James Baker said the same thing. He said, when testifying recently, that the New START verification program "does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START I. This complex part of the treaty is even more crucial when fewer deployed nuclear warheads are allowed than were allowed in the past."

Do your math, and it figures out. If you have 10 warheads that you are going to be inspecting, and they hide 1, that is just 10 percent of them. If it gets down to 2, and they hide 1, that is 50 percent of them. That is what they are saying, that we need to have more, not less. Of course, this is less. In fact, if you do the math a little bit further, as was said by the Senator from Massachusetts—he said: So I think it is one thing to ask our strategic forces to do that 10 times a year, or less than once a month. It is another thing for them to be waiting for 30 inspections a year. Again quoting him: We have two submarine bases, three bomber bases, and three ICBM bases. On the other hand, Russia has 3, 3, and 12. So they actually have 18, and we would have 8, which means, if you do the math further, they would be able to inspect one site every 2 years, while we would only be able to inspect every 2 years. They would be inspecting it every 1 year.

That is the reason we should be doing this. The other thing is—and people keep forgetting about it because it is not fun to talk about it—but the fact is, they cheat and we do not. Everyone has talked about this. We have something that was set up to try to measure who is cheating, who is not cheating.

We had the START treaty's Joint Compliance and Inspection Commission. That commission reported—they actually had two reports. One report was in 2005; one in 2010. In the report in 2005 that was on the Biological Weapons Convention, the State Department concluded—and I am quoting from the report of 2005—"Russia maintains a mature offensive biological weapons program and that its nature and status have not changed." That was after it had been in force for 5 years. That was in 2005.

In 2010, that same Commission comes back, and the report states: Russia confidence-building measure declarations since 1992 have not satisfactorily documented whether its biological weapons program was terminated.

Again we have the Biological Weapons Convention reports in 2005 and 2010, saying they are not complying. In other words, they are cheating. If you sign an agreement and do not do it, then you are cheating. That makes sense. On the Chemical Weapons Convention, the same thing. In 2005, the State Department assessed that "Russia is in violation of its Chemical Weapons Convention obligations because its declaration was incomplete with respect to declaration of production and development facilities." So that is what they said in 2005, that they are cheating on the Chemical Weapons Convention obligations they made, their treaty obligations.

In 2010, still talking about the Chemical Weapons Convention, the State Department again stated: There was an absence of additional information from Russia, resulting in the United States being unable to ascertain whether Russia has declared all of its chemical weapons stockpile, all chemical weapons production facilities, and all of its chemical weapons development facilities.

Again, they stated in 2010 that they are still cheating. So it is always difficult, when you look at these. The Senator from Massachusetts said: Well, wait a minute now. We have to do the same thing they have to do, and in your amendment, if we are going to have three times as many inspections, then we have to do three times as many and they have to do three times as many. We have to prepare for them here. I said: Yes, that is my point. We need to have more inspections. We want these inspections to take place. And we want to be sure that the Russians also adhere to their commitment for inspections, which they have never done in the past.

When you look at this, we see there are problems with this. When you talk about using the argument that we can-

not change something because you are changing the treaty, I think that is what we are supposed to do. We are supposed to be involved in the treaty. The Senator from Massachusetts was talking about the number of people who were involved in this thing—the military and all these others in putting this thing together. Well, guess who was left out? Us. And that is what the Constitution, under article II, section 2 says, that we in the Senate are supposed to ratify—advice and consent. Well, we have been advised, but we have not consented yet. That is what this is all about. The process works this way.

If we do pass an amendment such as my amendment that will be voted on in a few minutes to triple the number of inspections, that will change the treaty, and I understand that. That means it will have to go back to the Duma in Russia, and they then would have to look at the treaty and decide whether they would agree with it, and, if not, have them make a change, and then it comes back to us. It goes back and forth, and this is what our forefathers had anticipated would happen. Because of all the people who they talk about, the Senator from Massachusetts talks about, who were drafting this, the thing they all have in common is, they are not answerable to the people. We are. I say to the Presiding Officer, we were both elected. I say to the Presiding Officer, he was elected and I was elected; and, therefore, we are the ears and the eyes in the confirmation process for the public, and I think that is our constitutional obligation. It is very clearly stated.

So we do have serious problems. One thing that is kind of in the weeds and is a little bit complicated is, when you talk about that my amendment triples the number of inspections under New START from the types under the START I treaty, we had two types of inspections. This is critical. Type one refers to inspections of the ICBM bases, submarine bases, air bases—these are the delivery systems—to demonstrate very clearly that we are going to be able to look at those sites and see if they are carrying out those obligations under the treaty.

But type two refers to inspections at formerly declared facilities. They say we have more inspections right now. That is because we did not even have type two facilities in the START I treaty, because when you talk about formerly declared facilities, we are talking about facilities that are closed down. So we want to inspect to make sure they are closed down. So the test they use to see whether they are closed down is—they talk about debris. That is how you satisfy to see whether type two sites have been treated properly. Well, they can have debris left over from closing one site, and then leave five open that are supposed to be closed and scatter the debris around to use it again. There has been testimony that is what they would do.

I would be glad to yield, since we are going to have two votes coming up at 6 o'clock on the Thune amendment as well as my amendment, if the Senator from South Dakota wishes to talk about his amendment, and then I would be glad to resume my discussion.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that the time until 6 p.m. today be for debate with respect to the pending Inhofe amendment No. 4833 and pending Thune amendment No. 4841, with the time divided between the leaders or their designees, with no amendments in order to either amendment; that at 6 p.m., the Senate then proceed to vote in relation to the Inhofe amendment; that upon its disposition, the Senate then proceed to vote in relation to the Thune amendment, with 2 minutes of debate, equally divided as provided above, prior to the second vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I thank the Senator from Oklahoma for yielding some time. We are going to vote on his amendment and on the amendment I have offered. Both address important subjects in the treaty. The Senator from Oklahoma is dealing with the issue of verification and pointing out the shortcomings in the treaty with regard to that very important issue. The amendment I will have voted on deals with the issue of delivery vehicles, which, in my judgment, is a critically important element in this treaty as well.

As I have said earlier today on the floor, what this amendment does—it is very straightforward and it is very simple—is it just increases the number of deployed delivery vehicles, which are the bombers, the submarines, and the ICBMs allowed for in the treaty from 700 to 720.

In terms of background about why that is important—and I want to inform my colleagues in the Senate about why it is important we get that number up to 720—I asked at an Armed Services Committee hearing at what point between the range of 500 and 1,100 delivery systems that GEN James Cartwright, the Vice Chairman of the Joint Chiefs of Staff, would be comfortable and where we would avoid making our triad into a dyad.

He said: "I would be very concerned if we got down below those levels about midpoint," meaning that he would be concerned if the negotiated number fell below about 800 delivery vehicles. They have made a distinction—the administration has—between deployed and nondeployed, that there are 800 there. And he has subsequently said he could live with a 700 deployed number. But the fact of the matter is that the concern that was voiced initially about dropping down below that midpoint

level suggests that we need to at least increase up to where the administration's I guess you would call it their nuclear force structure plan settled, and that was 720 delivery vehicles.

So the amendment raises from 700 to 720 the number of delivery vehicles. As I said earlier in my remarks, if you look at what the 1251 report says, it says up to 60 nuclear-capable bombers, up to 420 deployed ICBMs, and 240 deployed submarine-launched ballistic missiles on 14 submarines.

If you add up, up to 60 bombers, up to 420 ICBMs and 240 deployed SLBMs, you get a number of 720 delivery vehicles. That is what the nuclear force structure plan calls for. Yet the treaty specifies 700 delivery vehicles. So there is a 20-delivery vehicle cap there, which I think is important.

Frankly, if you ask the question about where would those reductions come from, obviously it would come from either ICBMs or bombers. People have suggested it doesn't have to come out of the bombers, but if you did take it out of the bombers, if you reduce the number of bombers from the 60 that is specified in the nuclear force structure plan to get down under 700, you would have to take the bombers from 60 down to 40.

As I said earlier today, we have about 96 B-52 nuclear bombers, about 20 B-2 nuclear bombers, and those are total deployed and nondeployed, the number we have in our inventory arsenal. We have about 94, I think, that are combat ready. But in any case, we are talking about a significant reduction in the number of bombers we could deploy at any given time under the treaty if you get it down to the 700 number.

The question as to whether that would come out of ICBMs or whether it would come out of bombers to get from 720 down to 700, it could be some combination of both. But the thing that concerns me about this is we have a bomber fleet that is aging. Most of our bombers today are pre-Cuban missile crisis-era vintage bombers—about 47 percent of them are. We need a follow-on, a next-generation bomber that will fill that role, that will be survivable in the types of modern-era defenses we are going to encounter, sophisticated air defense systems that are being employed by some of our potential adversaries around the world. So if you think about what we need in terms of a next-generation bomber, we need a field bomber and we need to do it sooner rather than later and it needs to be nuclear.

But when asked the question about whether the next bomber would be a nuclear bomber, the military and the administration have been very ambiguous on that point. They haven't been able to answer clearly, with any degree of certainty, about whether the next bomber, the follow-on bomber, would, in fact, be a nuclear bomber, which would suggest to me the commitment to the bomber wing of the triad is a lot less than it is to perhaps the other two legs of the triad.

That being said, let's assume for the moment that if we have up to 60 bombers, we have up to 420 ICBMs, and we have 240 submarine launchable ballistic missiles, we are talking about a 720 number, not a 700 number. So that is why I think this debate is important and why we are trying to be insistent in getting those two numbers to match.

The other point I wish to make is with regard to delivery vehicles in the treaty. We start out right now with about 856 delivery vehicles, if you add up ICBMs, submarine launchable ballistic missiles, and heavy bombers. We will end up down at 700. So we are going to take about 156 of our delivery vehicles, reduce that, retire those, and get down to that 700 number. The Russians, on the other hand, start at about 620. So they are already well below the 700 number called for in the treaty. It has been suggested that through attrition they will probably get down to somewhere in the 400s in delivery vehicles. So this particular provision in the treaty costs them nothing. We give up 156 delivery vehicles. They give up nothing. In fact, they can come up to the 700 number. They could increase the number of delivery vehicles they currently have to come up to that 700 number.

So I think it is important to point out the difference that exists today and the disparity that exists between the Russian number of delivery vehicles and the number the United States has at our disposal and the number called for in the treaty and why that disparity is so important.

Just one final point, if I might, with regard to the nuclear posture of the country. We also have to defend not only the United States but about 30 other countries around the world that fall under the nuclear umbrella, under our deterrence. The Russians have none. So these delivery vehicle numbers become even more important, given the geographic realities the United States has to deal with in terms of our strategic nuclear forces and what they are expected to do in terms of providing extended deterrence not only to the United States but to many of our allies around the world.

So I think it is important in this treaty debate—this particular part of it—that we get a vote on this amendment. It has been suggested that if this amendment gets adopted, we will have to go back to the Russians. That is part of our goal of advice and consent in the Senate. If it were just consent, we would be nothing more than a rubberstamp. I think we have an important role; that is, to look at these critical issues, and where there are areas of disagreement, to provide our advice. I think, in a very straightforward way, we can vote on an amendment that would increase from 700 to 720 the number of delivery vehicles specified in the treaty. It is a very straightforward amendment and one that would then go back, obviously, to

the Russians, but it is certainly consistent with the Senate's traditional and historic role of advice and consent.

Former Defense Secretary Schlesinger testified to the Senate Foreign Relations Committee on April 29, 2010, that: "As to the stated context of the strategic nuclear weapons, the numbers specified are adequate, though barely so."

Well, "barely so" does not seem to be good enough for me when we are talking about the important obligations we have in defending America's vital national security interests as well as those of many of our allies around the world. I don't think settling for barely enough or barely so is sufficient.

So I hope my colleagues will support this amendment. I think, as I said earlier, the triad is critical to our nuclear deterrence and maintaining both ICBMs and SLBMs, but then also having a very robust bomber component of that is critical. That is why investing in a next-generation, follow-on bomber that is nuclear is important. I think the ambiguity that surrounds the question, the uncertainty that surrounds the question about whether a follow-on bomber would be nuclear speaks volumes about the commitment to that leg of the triad, but it is also important to remember bombers are the best form of extended deterrence.

If you want to make those who would proliferate nuclear weapons pay attention, you send a bomber in. A bomber is very visible, it is recallable, it is survivable, and it brings great psychological and political advantage to our country when it comes to trying to discourage proliferation by other countries around the world.

So I hope my colleagues will support this amendment. It is an important amendment. The delivery vehicle issue is, to me, critical to this debate not only in terms of the numbers but also the modernization of those various elements of the triad. The triad, over time, has given us great survivability, great flexibility, and if ever called upon, we want to be as prepared as we possibly can be to encounter any nuclear threat that might exist to the United States. I hope my colleagues will support this amendment.

I will reserve my time and yield back now to the Senator from Oklahoma, who I think probably wants to continue to talk about the verification issues.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I concur in everything the Senator from South Dakota said, and I join him in encouraging people to vote favorably on his amendment. It seems as though the other side has had the opportunity to do a lot more testing, a lot more modernization than we have, and I am very much concerned about that.

I wish to elaborate on one thing. The fact that there is—that the other side—and I read all the quotes from the previous Commissions that took place in

2005 and 2010 to demonstrate very clearly that the Russians would sign a treaty and then they will cheat. They would not comply with the treaty. We saw it with the chemical weapons treaty and the biological weapons treaty and START I. So there is no reason to believe they are going to do this. So in terms of verification, we have to try to do something where we are convinced, knowing full well in advance that they are going to cheat.

That brings up one issue that I haven't mentioned before in this treaty; that is, the length of time we have between notification and actually causing an inspection. Under the START I treaty it was 9 hours, and it has gone up to 24 hours in this treaty. In other words, if someone is going to cheat, if someone is going to hide something so we would not know where to look and we might not be able to find something, why give them three times as much time as we did under START I, when we know more today about the fact that they cheat than we knew before? The second issue is, it becomes more important—as you get closer to the inspections and as there are fewer facilities to inspect, each one becomes more important, and we have had an opportunity to see that everyone seems to agree with that.

Former Secretary Harold Brown explained this in his testimony before the Senate Foreign Relations Committee. That was way back in 1991. He said:

Verification will become even more important as the numbers of strategic nuclear weapons on each side decreases, because uncertainties of a given size become a larger percentage of the total force as this occurs.

I think I used the example that if you had 10 and you cheat on 1, that is 10 percent, but if you have 2 and you cheat on 1, that is 50 percent.

That statement is agreed with by John Bolton, who said:

While [verification is] important in any arms-control treaty, verification becomes even more important at lower warhead levels.

Again, he agrees.

Scowcroft, the same thing. He said:

... as force levels go down, the balance of nuclear power can become increasingly delicate and vulnerable to cheating on arms control limits, concerns about "hidden" missiles, and the actions of nuclear third parties.

So I think everyone does understand and does agree that as they decrease, then each one becomes more significant in terms of being inspected.

In this amendment, we are changing it from the 180 inspections over a 10-year period to what they would have under New START versus the old one, which was 600 inspections over 15 years. Do the math on that, and you come up with 18 inspections a year as opposed to 40 inspections a year.

They are trying to say there are only 36 sites, which means—if this is true—we would only get to inspect each site in Russia once every 2 years, while the math works out that they would be

able to do our side once every year. So that is something that is very concerning to me.

We talked a lot about where we are in this process. We have talked about our constitutional obligations, about what we are supposed to do under the Constitution. We talked about what we are supposed to provide for the common defense in article II, section 2 of the Constitution, which gives the President the prime role, but we have to advise and consent. I saw something recently, just today I think it is, that came out—yes, it was just today. It came out from Foreign Minister Sergey Lavrov in his statement. He said:

"I can only underscore that the Strategic Nuclear Arms Treaty, worked out on the strictest basis of parity, in our view fully answers to the national interests of Russia and the United States," Interfax quoted Lavrov as saying in an interview.

"It cannot be opened up and become the subject of new negotiations," Lavrov said.

Who is this guy telling us what we can do under our Constitution? I find it almost laughable because it is just as if all he has to do is say that and we have to follow the course.

But he said Russian lawmakers would closely examine the U.S. ratification resolution and any declarations or notes accompanying it to ensure no significant changes were made.

If changes are made, then they have not kept up their responsibility.

I would only remind my colleagues that:

As CRS has outlined in its study—

And this is a study they did not too long ago—

on the role of the Senate in a treaty process: Amendments are proposed changes in the actual text of the treaty . . . [They] amount, therefore, to Senate counter offers that alter the original deal agreed to by the United States and the other country.

If the Senate gives its consent to New START with an amendment to the text, the treaty is sent back over to Russia and the Duma meets and they decide what they are going to do with it. Then, of course, they make changes and then it comes back over here. This is something that has been going on for 200 years.

All of a sudden, why are we in a position where we are not going to do it and we look at our constitutional responsibility as something that is in the past?

So I feel we have this obligation, and I know so far every amendment that would have amended the treaty has been defeated, and it has been defeated on party—well, not necessarily on party lines but, by and large, on party lines. This is something very concerning to me.

The other issue is, when we talk about tripling the number of inspections under the New START, we have heard it said several times: Well, there are fewer sites. But I would like to suggest that the type two—keep in mind type one refers to inspections of ICBM bases, air bases, those facilities that are active today.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. Mr. President, how much time remains?

The PRESIDING OFFICER. We have 14 minutes 45 seconds.

Mr. KERRY. Did my colleague need to finish up a thought? If so, I am happy to yield him a minute.

Mr. INHOFE. No.

Mr. KERRY. Mr. President, I thank the Senator from Oklahoma for the discussion we had yesterday and again today about verification. I know it is an issue he thinks is critical. I think every Senator here is absolutely convinced we need to have the strongest verification regime possible. The fact is that this treaty, the New START treaty, has exactly that. It has an effective verification system. Does it have a perfect system? No treaty that has ever been passed or been negotiated would be that one-sided and be able to achieve that. It is an effective verification system, which is the standard we have used ever since President Reagan negotiated those treaties, and Paul Nitze, one of our great arms control statesmen, really defined that concept of effective verification.

I wish to quote what Secretary Gates said about this. I don't need to remind colleagues, but I guess people in the public who don't necessarily focus on it might be impacted to know that Secretary Gates was appointed by President George Bush, and he was held over as Secretary of Defense by President Obama. By everybody's judgment here in the Senate, he is a man of great credibility and distinction who has worked through many different layers of American government. He is one of the people for whom we have great respect. In a letter he wrote to Senator ISAKSON this summer, he said:

I believe that the number of inspections provided for by the New START Treaty, along with other verification mechanisms, provides a firm basis for verifying Russia's compliance with its Treaty obligations while also providing important insights into the size and composition of Russian strategic forces.

I know the Senator from Oklahoma is concerned about the number of inspections. He has several times raised the question of cutting the inspections from the original START to the New START. I want to walk through it again so we are absolutely clear.

Comparing the number of inspections under START I to the number of inspections under New START is literally an apples-to-oranges comparison for three reasons—one, today we are only conducting inspections in one country instead of four. Under START I, we had Belarus, Kazakhstan, Ukraine, and Russia.

Mr. INHOFE. Will the Senator yield for a unanimous consent request?

Mr. KERRY. Yes, as long as I don't lose my right to the floor.

Mr. INHOFE. Mr. President, I ask unanimous consent that the time be extended by 10 minutes—5 minutes for

the Senator from Massachusetts and 5 additional minutes for the Senator from South Dakota.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object, I want to make sure because people were planning schedules around it.

We have no objection, Mr. President.

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

Mr. KERRY. Mr. President, Secretary Gates said this about the—well, let me finish that thought about the difference. So when we had those 4 countries, we had 70 sites that were subject to inspection. Under this treaty, there were 35 sites subject to inspection, but they are all in one country—Russia—because all of the weapons were moved to Russia after the fall of the Soviet Union.

Secondly, we are inspecting half as many facilities, and when we inspect those facilities, we, thirdly, have a type one inspection and a type two inspection, which allows us to be able to go in and look at the missile but to also do an update inspection, which is sort of a general inspection of the up-to-date status of the various things we look at in the course of an inspection, which, in effect, really doubles the amount of inspections we have because under START I, if you went in and did an update inspection, that was it. You didn't get to do the missile inspection or vice versa. We really have a two-for-one here. It is disingenuous to reflect that in the comments about how we count here. We are talking about a completely comparable inspection regime under New START as under START I.

Finally, we addressed this question of verification in condition 2 of the resolution of ratification. That condition requires that before New START can enter into force—and every year thereafter—the President of the United States has to certify to the Senate that our national technical means, in conjunction with New START's verification activities, are sufficient to ensure adequate and effective monitoring of Russian compliance. So we are going to remain right in the center of this issue of verification every year this treaty is in force, and the Senate is going to be part of that process.

Let me briefly turn back to something Senator THUNE said earlier. He said this treaty was negotiated with the assumption that the Russians weren't going to cheat. No, Mr. President, it is not accurate that there was any such assumption whatsoever, and that is precisely why we have a verification structure here. It is why we are taking this discussion so seriously, because we don't take people at their word. We have to verify. That is what the verification regime is for.

Let me also be clear on what Secretary Gates said here. Senator INHOFE quoted the Secretary saying that the Russians would not be able to achieve

any militarily significant cheating under this verification regime. That is the judgment of our intelligence community, but it doesn't mean that they think or that we think they might not try to cheat. It means that if they do, it is going—if it is militarily significant, we will see it, we will know it, and we will understand exactly what they are doing. So we can respond, as Secretary Gates has, by increasing the size of our force, by increasing the alert level of SSBNs and bombers, and by uploading warheads on bombers, SSBNs, and on ICBMs. There are all kinds of things we can do to respond the minute we notice that kind of militarily significant event.

It is my judgment that this amendment does not give us anything in the way of additional confidence, but it certainly will give us months of unnecessary and even counterproductive renegotiation of the treaty. That means that by reaching for three times the number of inspections, we would guarantee that for months and months we will have zero, absolutely none. That is the tradeoff.

I think we need to get our verification team back in place, and I think that is what is most imperative in terms of the national security interests of the country.

I thank Senator THUNE for his amendment. I thank him also for the constructive discussion we have had about these numbers with respect to missiles and bombers in order to maintain our nuclear deterrent.

I think this is another place where it is pretty important for all of us to listen to our military. They have made the judgments here, and they have been very transparent about how they have made those judgments. We have been able to query them in the Armed Services Committee, the Intelligence Committee, the Foreign Relations Committee, and the National Security Working Group. They have arrived at the judgment—not a political judgment but a military judgment—that the treaty's limit of 700 delivery vehicles is perfectly adequate to defend our Nation and our allies at the same time.

As the Vice Chairman of the Joint Chiefs, GEN James Cartwright, who was a former strategic commander, said:

I think we have more than enough capacity and capability for any threat that we see today or that might emerge in the foreseeable future.

This amendment seeks to insert sort of our arbitrary judgment that, oh, we ought to have 20 additional. I remind the Senators what LTG Frank Klotz, the commander of the Air Force Global Strike Command, said. That is the command that oversees ICBMs and bombers. Just last Friday, he said:

I think the START Treaty ought to be ratified, and it ought to be ratified now, this week.

The military came to this conclusion after the Department of Defense conducted a very thorough review of our

nuclear posture, including detailed force-on-force analyses. We shared some of that discussion in the classified session earlier. Our nuclear commanders have done the math, run the scenarios, and they have concluded that we only need 700 delivery vehicles.

General Chilton, head of the Strategic Command, said:

The options we provided in this process focused on ensuring America's ability to continue to deter potential adversaries, assure our allies, and sustain strategic stability for as long as nuclear weapons exist. This rigorous approach, rooted in deterrent strategy and assessment of potential adversary capabilities, supports both the agreed-upon limits in New START and recommendations in the Nuclear Posture Review.

I do know the Senator expressed some concern about our ability to field Prompt Global Strike systems. It is true that conventionally armed ICBMs will count toward the treaty's limits, but again, let's listen to what the military says.

Secretary Gates stated for the record that:

Should we decide to deploy them, counting this small number of conventional strategic systems and their warheads towards the treaty limits will not prevent the United States from maintaining a robust nuclear deterrent.

Admiral Mullen said as far back as March that the treaty protects our ability to develop a conventional global strike capability should that be required.

I also point to our resolution of ratification, condition 6, understanding 3, and declaration 3, all of which go toward preserving our ability to deploy conventional Prompt Global Strike forces.

Finally, the Senator raised the possibility that we are moving from a triad to a dyad. I wish to be especially clear on this point. The administration has stated forcefully and again today reiterated in a letter sent to us by the Chairman of the Joint Chiefs of Staff, Admiral Mullen, in which he reiterates the administration's commitment to the triad. As it said in the "update" section of the 1251 report:

The administration remains committed to the sustainment and modernization of U.S. strategic delivery systems.

Regarding heavy bombers, that same report says:

DOD plans to sustain a heavy bomber leg of the strategic triad for the indefinite future and is committed to the modernization of the heavy bomber force.

To be clear, our existing nuclear bombers will be in operation at least for the next 20 years, and probably at most this treaty could be a 10- to 15-year treaty. Our existing bombers will outlive this treaty.

The administration has also made clear that we are committed to the triad in the resolution of ratification, including our nuclear bombers. I might add that they have also said they are not going to close bases, and they are not going to reduce the total number of bombers.

I believe there should not be concern on these points.

This amendment, once again, is one of those that would force renegotiation of the entire treaty. I might mention for my colleagues that one of the reasons that is so important to all of us—we can all remember negotiating around here many times on different bills and pieces of legislation. We always begin that negotiation—I can remember Senator George Mitchell, when he was majority leader and we did the complicated Clean Air Act reauthorization in 1990, he would begin every session by reminding people that nothing is agreed upon until everything is agreed upon. We negotiate that way here all the time.

So if all of a sudden nothing is agreed upon and that is the way this treaty was negotiated—if nothing is agreed upon until everything is agreed upon, when you take one piece out of there and change it unilaterally, nothing is agreed upon. At that point, you reopen all of the other issues, and some of them are contentious, which are difficult, which people may have a different view on, and which will affect our relationship.

If this weren't so substantive and I thought we were buying a pig in a poke, I would say I understand why we have to do that.

But the military, our national security people, our national intelligence community—there is not anybody who works at this day to day—our Strategic Command, our National Defense Missile Command—all of them say: Ratify this treaty. And that is what I believe we ought to do as soon as possible.

I reserve the remainder of our time.

Mr. KYL. Madam President, I wonder if I might engage in a colloquy briefly with my colleague from Massachusetts and then propound a unanimous consent agreement.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Arizona.

Mr. KYL. Madam President, there are two votes scheduled on the Thune amendment and the Inhofe amendment. Have we locked in the LeMieux amendment yet?

Mr. KERRY. I do not believe so.

The PRESIDING OFFICER. No.

Mr. KYL. Madam President, does my colleague anticipate that it is possible there would be a third vote tonight, depending upon whether Senator LEMIEUX is ready to have that vote?

Mr. KERRY. I suspect the majority leader would be delighted to have another vote if we can. I am speaking without authorization.

Mr. KYL. At some point, just for the benefit of Members, there could theoretically be a third amendment tonight if Senator LEMIEUX is ready to have that vote and if there is no objection by any other Member.

The other point, I inform my colleague, is I have the exact numbers of the five amendments I would like to get pending. Let me make that request at this time. They are amendments

Nos. 4900, McCain amendment; 4893, Kyl amendment; 4892, Kyl amendment; 4867, Kyl amendment; and No. 4860, Kyl amendment. These are all proposed amendments to the resolution of ratification.

I ask unanimous consent that it be in order to call up five amendments to the resolution of ratification; provided further that these be the only amendments in order to the resolution of ratification at this time; and I ask unanimous consent that following the disposition of the amendments solicited, the Senate then resume consideration of the treaty.

Before my colleague responds, I will also say this: I believe there are only four other amendments pending, and one of them is mine. I will agree to waive my right to bring that up. I cannot say for the others, and I need to talk with those Members during the vote. I do not know whether they would want votes on their amendments. In any event, there are no more than three of them. So it is a locked-in number.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, reserving the right to object, I want to make clear that as we move to these amendments with respect to the resolution of ratification, we are going to preserve the right, then, to go back only to those three that are pending. And the Senator has agreed to make a good-faith effort to see if that could be reduced to simply one; is that accurate?

Mr. KYL. No. I am saying one is mine, and I would eliminate it now.

Mr. KERRY. I understand that the Senator, in our conversation earlier, was going to try to see if the other two could also make the same decision he has made so we, in effect, have one on the treaty itself.

Mr. KYL. If that was the impression, I do not think I can do that. But in any event, I did not try to do that. There are four all told. I would eliminate my one, and there would be a fixed number—only three possibilities after that.

Mr. KERRY. Could we then say for the record which amendment is being withdrawn at this point?

Mr. KYL. It would be the only Kyl amendment remaining pending to the treaty.

The PRESIDING OFFICER. If the Senator will withhold. There is no Kyl amendment pending.

Mr. KERRY. Madam President, if I may say to my colleague, the majority leader would like to work with us in this process. I think what we should do, if I may ask my colleague to do this, I would like to take a moment, if we can, to work through this with the majority leader. We can do it during the votes, and then at the end of the votes we can hopefully propound something that has his engagement.

Mr. KYL. I can tell my colleague that the amendment I would be agreeing not to bring up is amendment No.

4854. I misspoke when I said it is pending. It is filed to the treaty.

Mr. KERRY. I thank the Senator. That helps us a lot. That clarifies it. What I would like to do is work with the majority leader and the Senator from Arizona, and I am sure we can come together, and at the end of the vote we can propound an appropriate UC.

Mr. KYL. I am not willing to withdraw my request. What I am afraid of, quite frankly, is that we are not going to be able to get unanimous consent before a cloture vote on the treaty and we are going to be iced out here.

I have propounded a unanimous consent request. I will be happy to read it again. If there is an objection, fine. I want to get agreement on this, if at all possible.

The PRESIDING OFFICER. If the Senator from Arizona could repeat his request, that would be helpful.

Mr. KYL. I would be happy to. Madam President, I ask unanimous consent that it be in order to call up five amendments to the resolution of ratification; provided further that these be the only amendments in order to the resolution of ratification at this time; and I ask unanimous consent that following the disposition of the amendments solicited, the Senate then resume consideration of the treaty.

Mr. KERRY. Reserving the right to object, I personally am supportive of our trying to do that. I have said to the Senator in good faith that we need to have some amendments to the resolution of ratification. We are working on them. I am confident that we will be able to accommodate his request, but I am in a position where I need to have the input of the majority leader to do that. I will personally advocate we do it.

At this moment only, I must object to that request, but I look forward to trying to propound it after the votes.

The PRESIDING OFFICER. Objection is heard.

Mr. KYL. Madam President, I appreciate the explanation. That ordinarily would be information given to the two leaders, and we did not do that in this case. I do appreciate this.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, it is my understanding that I have a minute in which to wrap up debate on this amendment; is that correct?

The PRESIDING OFFICER. All of the time has been used.

Mr. THUNE. I ask unanimous consent to have a couple minutes to summarize a couple points. I had 5 minutes which I think just got burned.

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

Mr. THUNE. Madam President, I will make a couple quick points before we vote on the delivery vehicle amendment, and the first one is this because it has been observed that this would impact Prompt Global Strike. The supporters of the treaty have said it will

not impact Prompt Global Strike. The fact is that the 700 number of delivery vehicles—if, for example, we were to mount a conventional warhead on an ICBM to strike a target in some geographic area that is hard to hit and we need to get there in short order, the ICBM currently is the best way to do that. If we do that, it reduces the number of nuclear delivery vehicles we have one for one. If we were to do that on 20 ICBMs, we would mount conventional warheads on those, and it would reduce by 20 the number of nuclear delivery vehicles we would have. That is a fact in the treaty.

The final point I will make about the number 700, because it has been pointed out that military personnel in the country support that number, but I also want to mention that it is important to recall that General Chilton's support for New START levels was predicated on no Russian cheating. He testified before the Senate Armed Services Committee on April 22, 2010, that one of the assumptions made was an assumption that the Russians in the postnegotiation time period would be compliant with the treaty. We all know it has been pointed out many times on the floor how Russia is a serial violator of arms control commitments. I think it is important, as we discuss the 700 number, that people bear in mind that number was agreed upon by our military commanders assuming there would be no cheating by the Russians.

There still is a conflict between the 720 called for in the nuclear force structure plan and the 700 in the treaty. All I am simply saying is, let's make those two numbers consistent. Let's get the 700 number up to 720.

With that, I yield back my time and ask for the yeas and nays.

Mr. KERRY. I yield back the remainder of our time.

The PRESIDING OFFICER. Is there an objection to asking for the yeas and nays? Without objection, it is so ordered.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Inhofe amendment.

Mr. KERRY. Does Senator INHOFE want to ask for the yeas and nays?

Mr. THUNE. I also request the yeas and nays on the Inhofe amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk call the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 285 Ex.]

YEAS—33

Barrasso	DeMint	LeMieux
Bond	Ensign	McCain
Brown (MA)	Enzi	McConnell
Bunning	Graham	Risch
Burr	Grassley	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Snowe
Collins	Johanns	Thune
Cornyn	Kirk	Vitter
Crapo	Kyl	Wicker

NAYS—64

Akaka	Gillibrand	Murkowski
Alexander	Gregg	Murray
Baucus	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bennett	Isakson	Reed
Bingaman	Johnson	Reid
Boxer	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Conrad	Levin	Tester
Coons	Lieberman	Udall (CO)
Corker	Lincoln	Udall (NM)
Dodd	Lugar	Voinovich
Dorgan	Manchin	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	
Franken	Mikulski	

NOT VOTING—3

Bayh	Brownback	Wyden
------	-----------	-------

The amendment (No. 4833) was rejected.

The PRESIDING OFFICER. There is now 2 minutes, equally divided—

The majority leader.

Mr. REID. Madam President, first of all, I ask unanimous consent that the vote on the Thune amendment be 10 minutes in duration.

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

Mr. REID. No. 2, Senator LEMIEUX has an amendment that is pending. I ask unanimous consent that vote follow the Thune amendment and that vote also be 10 minutes in duration.

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

Mr. REID. Madam President, I ask unanimous consent that there be no amendments—

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. REID. Let me finish my unanimous consent request, and if someone does not like it, we can worry about that. I ask unanimous consent that—we are going to vote on the Thune amendment; that will be a 10-minute vote; that is amendment No. 4841—following that vote, we consider the LeMieux amendment No. 4847; that prior to the vote, there be 4 minutes of debate, equally divided and controlled in the usual form; that is, of course, with the Thune amendment and the LeMieux amendment; that upon the use or yielding back of the time, the Senate then proceed to vote in relation to the LeMieux amendment, with no amendment in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I would also say, Madam President, that will very likely be the last vote tonight. I have had a conversation with Senator KYL and Senator KERRY. They are going to meet early in the morning to see if there is a way we can work through some of these issues that are still outstanding.

The one message I wish to make sure everyone gets—I know everyone has lots to do this week—but on this most important treaty, no one needs to feel they are being jammed on time, as busy as we all are and as many things as we want to do in the next few days. So if anyone has any issues they still want to deal with, talk to Senator KERRY or Senator KYL or Senator LUGAR, who is the comanager on the other side.

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

Who yields time?

AMENDMENT NO. 4841

Mr. REID. Madam President, we yield back the 2 minutes on our side.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the Thune amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 286 Ex.]

YEAS—33

Barrasso	Ensign	LeMieux
Bond	Enzi	McCain
Brown (MA)	Graham	McConnell
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Cornyn	Johanns	Thune
Crapo	Kirk	Vitter
DeMint	Kyl	Wicker

NAYS—64

Akaka	Franken	Murkowski
Alexander	Gillibrand	Murray
Baucus	Gregg	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bennett	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	Lincoln	Udall (NM)
Corker	Lugar	Voinovich
Dodd	Manchin	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	
Feinstein	Mikulski	

NOT VOTING—3

Bayh Brownback Wyden

The amendment (No. 4841) was rejected.

AMENDMENT NO. 4847

The PRESIDING OFFICER. There is now 4 minutes equally divided prior to a vote on the LeMieux amendment.

The Senator from Florida.

Mr. LEMIEUX. Madam President, this amendment says simply one thing: that within 1 year's time of the ratification of this treaty, the United States and Russia would sit down and negotiate a tactical nuclear weapons treaty. Why do I bring this forward? Because we know—and we heard a lot about it today in our closed session—that there is a tremendous disparity between the number of tactical nuclear weapons our country has at 300 and the Russians have at 3,000—10 to 1. If this treaty is ratified, the Russians will have 4,500 nuclear weapons. We will have 1,800.

This is not a poison pill. You will hear that; it is not. It does not change a material term of this agreement. It just says within a year's time, we will sit down and enter into these negotiations. We need to put it into the treaty because that is the only way we can make sure it will happen.

If we send this treaty with this amendment back to the Russian Duma and they don't approve it, what does that say? It says they know they have a significant advantage over us. It is the right thing to do. It is something I think all of our colleagues should be able to agree to. It is not a poison pill. Let's approve it. Thank you.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I will be very brief.

I completely agree with the intention of the Senator. I think all of us agree we have to negotiate a tactical nuclear weapons treaty with Russia. Unfortunately, this, according to our NATO allies, according to our national security representatives, will actually prevent us from getting to the place where we negotiate that because the first thing we have to do to get the Russians to the table is pass the START treaty.

If we pass the New START treaty, we can engage in these discussions. If we don't pass it, they have no confidence. We simply go back to ground zero and begin negotiating all the pre-START items again before we can ever get there. We cannot just pass this unilaterally and order them to get there. We have to get them to enter into those negotiations. The way to do that is to preserve the integrity of the START treaty and then get to those agreements. We have that in the resolution of ratification.

There is language that urges the President and embraces this notion of the Senator from Florida. I congratulate him for wanting to target it. It is important to target it, and we will do it in the resolution of ratification.

I yield back any time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4847.

Mr. BOND. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER (Mr. MERKLEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 62, as follows:

[Rollcall Vote No. 287 Ex.]

YEAS—35

Barrasso	Ensign	McCain
Bond	Enzi	McConnell
Brown (MA)	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Collins	Johanns	Thune
Cornyn	Kirk	Vitter
Crapo	Kyl	Wicker
DeMint	LeMieux	

NAYS—62

Akaka	Franken	Mikulski
Alexander	Gillibrand	Murray
Baucus	Gregg	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bennett	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Conrad	Levin	Tester
Coons	Lieberman	Udall (CO)
Corker	Lincoln	Udall (NM)
Dodd	Lugar	Voinovich
Dorgan	Manchin	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	

NOT VOTING—3

Bayh Brownback Wyden

The amendment (No. 4847) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to reconsider was laid on the table.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for about 7 minutes as in morning business.

The PRESIDING OFFICER (Mr. MERKLEY). Is there objection?

Without objection, it is so ordered.

(The remarks of Mr. GRASSLEY are printed in today's RECORD under "Morning Business.")

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 4904, AS MODIFIED

Mr. CORKER. Mr. President, I ask unanimous consent that amendment