move it to Fargo, ND, because there are not that many Hispanics there.

Guess what, folks. That is illegal. That is illegal. Do my friends on the Republican side say they ought to be able to do that in violation of all our civil rights laws in this country? Of course not.

People say: Of course, they can't make that kind of decision based on that. They can't make a decision to move a plant where there are more men than women so they won't have to hire more women; or less African Americans so they don't have to hire more African Americans. We can carry this on and on.

So I hope my friends on the Republican side are not saying a company can retaliate and then just walk away without any penalties, without even any recourse by the workers to have their cases heard. That is what I am here defending. I am defending the rights of the workers in the plant in Everett, WA, to have their complaints heard.

Now, I don't know the facts. I know a little of the law, but I don't know the facts. That is for the trier. That is for the administrative law judge and the NLRB and the appeals court and the Supreme Court. That is their jurisdiction. But for us to say it shouldn't even go there; that these workers can't even bring a case—and I might add, there are a lot of cases that are filed with the NLRB that don't go there because the NLRB investigates; they do their due diligence; and they find out there is not even enough evidence to warrant going forward.

So all I can assume is here there was enough evidence to warrant going forward. Whether there is enough to actually find that Boeing did retaliate, again, I don't know. That is up to the trier of fact—the administrative law judge. But I am hearing from these dramatic outcries that somehow we are destroying the right to work. This case has nothing to do with right to work—nothing—zero. It has nothing to do with right-to-work laws. This case has nothing to do with the outcry that somehow this is destroying the essence of a business to be able to decide, in its best economic interest, where to locate.

If Boeing wants to open their plant in Timbuktu, they can do that. If they want to open a plant in South Carolina, they can do that. What they can't do is open a plant someplace in retaliation against the workers exercising their legally protected rights; that, they can't do.

Now, again, this is an evidentiary-type hearing. So the evidence will have to come forward as to just what decisions were made, why they were made. Quite frankly, there are executives of Boeing who have publicly stated—publicly—that one of the reasons they moved was because of the work stoppages at the Everett plant—work stoppages, strikes. Is that enough evidence? I don't know. Maybe it is enough evidence to warrant going forward. Obviously, the general counsel's office decided there was.

I would also point out, Mr. President, the general counsel's office in cases such as this works long and hard to try to settle the case—to get both sides to settle. I know the general counsel's office in this case did try to do that, but they were unsuccessful; therefore, the case goes forward.

So I want to point out again—just to reiterate, Mr. President—this is not about doing away with the right-to-work laws. It has nothing to do with that. It has nothing to do with interfering with businesses' making decisions on where to locate their plants or anything such as that. It has nothing to do with that. It has nothing to do with destroying capitalism. It has to do with whether workers have a right—first of all, can they exercise their legally protected rights, and then can they make a case to the NLRB they were retaliated against because they exercised their legal rights. That is what this case is about. That is what this case is about.

Again, I understand the desire of certain people to raise money for political campaigns. I understand that. I understand how one might exaggerate things a lot of times in direct mail and in the press. I am sure there will be a lot of businesses that will hear: You have to contribute to this campaign or that campaign to stop President Obama or to stop the National Labor Relations Board from taking your business decisions away from you.

Well, that is misinformation. I know it can be used to raise a lot of campaign money, but it is not right. It is not right to deceive and to misinform the American people about a basic right that protects middle-class workers in America. Americans understand fairness, and they resent it when the wealthy and the powerful manipulate the political system to reap huge advantages at the expense of working people.

I think I have always been a pretty good friend of the Boeing Company. I have been a big supporter of Boeing in so many things, going back in my 30 years in the Congress. It is a great company. They provide a lot of great jobs for American workers. They build great airplanes—better than Airbus, I might say. But it is wrong for them now to come in and try to get the political system to undo a legal administrative procedure the workers at that Boeing plant have instigated and have asked for the NLRB to investigate and to charge Boeing with retaliation.

What is happening in this case is that the powerful and the big are trying to manipulate the political system. Powerful corporate interests are pressuring Members of this body to interfere with an independent agency rather than letting it run its course.

We should not tolerate this interference. We should turn our attention to the issues that matter to American families—how we can create jobs in Washington, and, yes, in South Carolina, in Iowa, and across the country; how we can rebuild the middle class, how we can ensure that working hard and playing by the rules will help rebuild a better life for families and for their children. Playing by the rules is what the workers did. They played by the rules. They exercised their legal rights, and now there is a complaint filed. I say it is wrong for us to interfere in that.

Again, if we don't like the law, if we don't like the administrative procedures that undergird this, it can be changed. It can be changed. But I daresay we have had 75 years of the Wagner Act—of this process, and I will close on this: Sometimes businesses file a complaint with the NLRB against a union activity, and that is investigated. That goes before administrative law judges, too. So both sides use this.

I think it is unbecoming for us now to try to turn this into some kind of a political maelstrom, a political tornado, when it shouldn't be that. Let's let the law and let's let the administrative procedure do its job. Then, if corrective action needs to be taken, then it is the purview of Congress to deal with it at that time. Not now.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

ALLEN NOMINATION

Mr. WEBB. Mr. President, I would like to express my appreciation to the leadership in the Senate of both parties for scheduling a vote today on Arenda Wright Allen's confirmation for a seat on the U.S. District Court for the Eastern District of Virginia.

All of us in this body know how important it is to fill the vacancies on our Federal bench, and particularly when we have highly qualified nominees who have no particular issues that need to be discussed in a political sense, and Virginia is no exception in this matter. The sheer volume of our Federal court workload demands we appoint dedicated, qualified jurists.

In that regard, Senator MARK WARNER and myself were very pleased to have recommended Arenda L. Wright Allen to the President in June of last year for this position on the U.S. District Court for the Eastern District of Virginia. President Obama nominated Arenda Wright Allen last December. She was renominated this year. She was reported out of the Judiciary Committee without opposition on March 10 of this year, and I believe the President has made an extraordinary choice in nominating Ms. Wright Allen.

Whenever a vacancy has occurred on the Virginia Federal bench, Senator WARNER and I have very carefully conducted thorough and extensive reviews of candidates for the position. This review process includes interviews and recommendations by the bar associations and in-person interviews with

many of the candidates. I am proud to say the Virginia candidate pool from which we had to choose on this particular occasion was excellent. It was deep. It included judges, legal scholars, and skilled trial attorneys.

From this very competitive field, Senator WARNER and I moved for the nomination of Ms. Wright Allen. She distinguished herself as the premier candidate in a very competitive field for this vacancy.

Ms. Wright Allen has displayed during her career the highest degree of integrity, competence, and commitment to the rule of law. She exemplifies the best of the Virginia Bar and, in fact, received the highest ranking from the Virginia State Bar.

As one who was privileged to serve as Secretary of the Navy and also as a combat marine, I personally understand the sacrifices that veterans have made to their country. Ms. Wright Allen is a veteran of the U.S. Navy. She served for 5 years as an Active-Duty JAG officer, and she continued her service as a Reserve JAG officer until her retirement from the Navy as a commander in 2005.

Her record of military service is excellent. Given the huge military presence in the Eastern District of Virginia, I believe this military experience will be valuable to her in her capacity as a Federal judge.

Ms. Wright Allen has dedicated her civilian career to serving her community, first as a Federal prosecutor and since 2005 as a Federal public defender. Unanimously, prosecutors and defenders who have worked with or have been on the opposing side to Ms. Wright Allen have attested to her talent, her dedication, and above all her exceptional character. Upon meeting her, it was clear to me she possesses the correct judicial temperament and dedication to make an excellent judge.

I have also had the pleasure of meeting her family and a number of her friends. Her dedication to her family, her church, and her community is clearly evident. I am proud Virginia has such an exemplary individual to put forward as a Federal district court judge nominee, and I urge all my colleagues to support Ms. Wright Allen today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

NEW START IMPLEMENTATION ACT

Mr. KYL. Mr. President, on behalf of myself and Senators MCCAIN, SESSIONS, CORNYN, VITTER, WICKER, and INHOFE—and probably others before the end of the day—I am going to introduce legislation called the New START Implementation Act, which I would like to describe briefly. This legislation is nearly identical to a companion bill introduced in the House of Representatives by Mr. TURNER, the chairman of the Strategic Forces Subcommittee of the Armed Services Committee. He has been a leader in the House on nuclear and missile defense issues. I understand many of the provisions have been included in the chairman's mark of the National Defense Authorization Act in the House and that the remainder will be introduced as amendments later today at a full committee level. I specifically wish to thank Chairman TURNER for his leadership.

Nuclear deterrence issues are among the most complicated and technical issues that we in the Congress are confronted with, and he deserves full credit for tackling them with vigor and for mastering them so quickly.

Similar to the House legislation, it is my hope that the Senate bill will be incorporated into the Senate version of the National Defense Act for fiscal year 2012. Let me now explain a little bit why I think this legislation is necessary at this time.

I voted against the New START treaty for reasons I have made clear previously on the floor. But I recognize the President's stated commitment to the modernization of our nuclear deterrent is necessary and is important and that Congress needs to codify the commitments made during the debate on the New START ratification process as well as the agreements the President has indicated through his comments and letters to us. This is important for the future, for future Congresses and future Presidents, because this process is going to take place over a period of at least 10 to 12 years. Modernization of our nuclear weapons facilities and the strategic delivery systems all will require commitments over the space of another decade or more. Memories fade, people's interpretations may change over time, circumstances change, and what we want to make sure of is that over the time period involved during which this modernization process must occur, the understandings that were agreed to at the time of the START treaty ratification will be memorialized in statute and complied with by the Congress and by the administration as time goes on.

The five key features of the legislation are these. First, it would link the funding of the administration's 10-year nuclear modernization program with any U.S. nuclear force reductions during the implementation phase of the treaty. What that means is, as in the later years of the treaty, funding is necessary for the demobilization, the dismantling of some of the weapons that are called for to be dismantled under the treaty but that funding is coordinated with the funding for the modernization program which is going on at the same time. It urges the President to stand by the timelines he pledged on warhead modernization in the revised plan he submitted in November of 2010. This is key to ensuring that Congress will support these modernization efforts that were deemed necessary in conjunction with the New START treaty.

The second thing the bill does is to ensure that nuclear doctrine and targeting guidelines and the New START force levels that the former STRATCOM commander, GEN Kevin Chilton, said were ''exactly what is needed'' are not arbitrarily cut by the administration that seems eager now to go to even lower levels, perhaps even unilaterally, than were negotiated in the START treaty. The President has indicated his desire for a world without nuclear weapons and said he would like to do new things in the future to reduce the numbers of these weapons. We simply want to make certain the guidelines that are militarily necessary reference points for the number of weapons we have, the types we have, how they are deployed and so on, are not modified in order to be a reason for or an excuse for reducing strategic weapons thereafter.

I think this is necessary because the President's National Security Adviser said on March 29 that, even as ''we implement New START, we're making preparations for the next round of nuclear reductions.'' In developing options for further reductions, he said: ''We need to consider several factors, such as potential changes in targeting requirements and alert postures that are required for effective deterrence.''

We were told the New START force levels were exactly what is needed for deterrence. Yet now the administration may seek to alter deterrence requirements in order to justify further reductions. My view is, the administration cannot use one set of facts to ratify the treaty and then immediately change those facts in order to suit its Global Zero agenda. Forty-one Senators made clear in a letter to the President on March 22 that we expect the administration to consult with Congress before directing any changes to U.S. nuclear weapons doctrine or proposing further strategic nuclear reductions with Russia. No consultations have occurred to date, and we expect that those consultations would occur before any discussions with Russians take place.

Third, the legislation would ensure that the triad of strategic nuclear delivery systems—that is to say, the bombers, cruise missiles, ICBMs and ballistic missile submarines—are modernized and that their reliability is assessed each year. Even today, we are still uncertain about the administration's plans to modernize the ICBM leg, nor do we know if the new bomber will be nuclear certified upon its deployment. For example, according to an April 22, 2011, press account in the Global Security Newswire, ''The US Airforce cannot say exactly how much it will spend to explore options for modernizing its ICBM fleet, nor where the money will come from.''

Obviously, if we are currently planning the modernization of these fleets, but we do not even know where the money is going to come from for the planning, we have a problem that needs to be resolved now rather than later.