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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

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

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

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

FUNDING THE GOVERNMENT

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

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

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

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

This bill, put together by Senator INOUYE and Senator COCHRAN, is a good bill. It is an important piece of legislation. It has priorities that are so vitally important to children.

Mr. President, 300,000 children in America, as a result of our not moving forward, are going to be treated much differently. The Head Start Program has been proven to be something that is vital to the country, and 300,000 children will not be eligible for Head Start because of this. Programs in our schools will be much less than they should be. Senior citizens will be significantly harmed. We have in this legislation programs that will create jobs, jobs through developing infrastructure that is so desperately needed. This action taken by my friends on the other side of the aisle is going to cause people to lose their jobs.

Military construction. I have important bases vital to the security of this Nation in Nevada. They are all going to be damaged as a result of what has happened here. One reason I feel so put upon, which is probably a word that people don't much care whether I am put upon, but I tried to make this something that was good for the Congress. I was elated that one of my Republican friends said: Here is who is going to support you. Here is who is going to support you, up to nine.

I have talked to a number of those Senators. I will not identify them. I know who they are. I have it right here. I won't tonight or any time publicly ever say anything about who they are, but they know who they are. In the last 24 hours they have walked away from the ability for us to complete this legislation. I was told within the last 24 hours that we had bipartisan support to pass this bill. ''Many'' is a word that is too large, but a number of Republican Senators told me they would like to see it passed, and they couldn't vote for it.

Those nine Senators—I have called some of them tonight and visited with them—will not support this legislation. We now have a simple choice. Are we going to help the people in America—I have listed some of the people who desperately need this help, and it appears that the answer will be no—or will we wind up passing a short-term CR to keep government running. In reality, we only have one choice, and that is a short-term CR.

I asked my friend Senator MCCONNELL if I should file cloture on the CR we got from the House. He said no. And one thing about Senator MCCONNELL, I have found that he levels with me on issues. There is no need to go through that procedure. It is not worth it to anybody. We will not get a vote on that.

So in the next 24 hours or so, Senator MCCONNELL and I will work to try to come up with a CR to fund the government for a certain period of time. That is where we are right now. I am sorry and disappointed.

Mr. MCCONNELL. Mr. President, may I make a few observations about where we are?

Mr. REID. Yes. I am going to file cloture tonight on the DREAM Act. We will have a cloture vote on that Saturday morning fairly early. I am going to file cloture on don't ask, don't tell tonight. So those will be sequenced for Saturday or whenever we get to them. But we have to move this along. Following that I was told by a number of Republican Senators that they needed 6 or 7 days to debate and offer amendments on the START treaty. That will certainly be available. We will finish, if the math works out the way I believe it will, early Monday morning.

First of all, tomorrow we can debate START to everyone's heart's content. They can offer as many amendments as they want, and then Monday we can go to that again. This would be 3 days already completed on that, 3 or 4 days, whatever is appropriate next week to complete the START treaty. We would wind this up by taking care of the nominations that Senator MCCONNELL and I have been working on. That is the range of things we have to do. I have told the two Senators from New York that I will move to reconsider their vote at some time, but that is going to happen fairly quickly.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, let me respond briefly to the majority leader. I too want to commend the members of the Appropriations Committee for all the work they have done, particularly Republican members of the Appropriations Committee who did spend an enormous amount of time crafting and developing the 12 different appropriations bills that we should have been acting on all year long. This is the first time in modern history that not a single appropriations bill went across the floor of the Senate—not a one. So the Appropriations Committee members on a bipartisan basis did indeed do their job. The problem was the full Senate didn't do its job. What we ended up with was this, this almost 2,000-page Omnibus appropriations bill which we only got yesterday.

The point is, the work the Appropriations Committee did in many respects was squandered because the full Senate didn't do its job. This is precisely the kind of thing the American people have gotten tired of.

The message we ought to take out of this is that next year, we are going to listen to the American people. We are going to do our work, do it in a timely fashion. There is no more basic work than the funding of the government. That is the first thing we ought to be doing.

Here we are trying to do it right at the end, as an old Congress goes out of office and a new Congress comes in. The message is, let's don't do this anymore. Let's make a bipartisan decision at the beginning of the next session that the basic work of government is going to be done in a timely fashion for an opportunity out here on the floor of the Senate for Members of both parties to offer amendments, make suggestions, and improve the bill.

I too respect the work the Appropriations Committee has done. I don't agree with the priorities we have had here in the Senate about what things are important. As a result of not doing the basic work of government, here we are at the end struggling with this issue. There is only one reason why cloture is not being filed and the majority leader, to his credit, has already said it. He doesn't have the votes. The reason he doesn't have the votes is because Members on this side of the aisle increasingly felt concerned about the way we do business. For many of our Members it was not so much the substance of the bill but the process. Let's learn from this. We will get together, as the majority leader said, and determine what appropriate time for a continuing resolution makes sense to offer to govern on an interim basis, and let's come back here after the holidays with a renewed desire to do our business in a timely fashion and avoid this kind of thing in the future.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, it doesn't take a person with a PhD to understand that I differ with what my friend, the senior Senator from Kentucky, said, things that don't indicate what history is in the Senate. We have been facing 87 filibusters this Congress. For anyone to suggest that the reason the work of Senators INOUYE and COCHRAN was not completed is because we didn't do the appropriations bills is far-fetched. Senators INOUYE and COCHRAN, in good faith, worked toward what they were told the Democrats and Republicans wanted to do; that is, have a bill that took in the priorities of Democrats and Republicans. The bill that we are talking about isn't a bill that is a Democratic bill. It is a Democratic and Republican bill.

Mr. MCCONNELL. Will my good friend yield for a question?

Mr. DURBIN. Will the majority leader yield for a question?

Mr. REID. I yield to the Senator from Illinois.

Mr. DURBIN. I wish to ask the majority leader, does he recall the time I returned from the Appropriations Committee and said Senator MCCONNELL had come to the committee and said he was going to establish the maximum amount that he would vote for in all the appropriations bills, the 203(b) allocation of $1.108 trillion? And I said to the majority leader, I think ultimately that is what we are going to be voting for, Senator MCCONNELL's number. Is the Senator from Nevada aware of the fact that the bill we were going to consider was at that number that was asked for by Senator MCCONNELL in the Appropriations Committee?

Mr. REID. Yes, and it satisfied what we had debated here on a number of occasions and voted on, the so-called Sessions-McCaskill number. So we did that. This is not a big balloon that we just threw up to see how it would work out. Senator MCCONNELL, who has had a longstanding association with the Appropriations Committee, that was a number he told us we should work with.

Mr. DURBIN. Will the Senator yield for a further question?

Mr. REID. I am happy to.

Mr. DURBIN. As a former member of the Appropriations Committee, is the Senator aware of the process in that committee, a bipartisan process where the ranking Republican member and the Democratic chairman of each subcommittee sit down to literally have a hearing, mark up a bill, and accept earmarks from both sides of the aisle? That is the common practice and has been followed with the bills that are currently sitting in front of the minority leader?

Mr. REID. Yes. To Senator COCHRAN's credit, there were things he thought should not be in the bill that Senator INOUYE was putting together. Senator INOUYE, to his credit, said: OK, it does not go in. Everything people wanted in this bill—in addition to the work that went on on the subcommittee level, the full committee level—anything that was added at a later time had to be approved by both Senator INOUYE and Senator COCHRAN.

Mr. DURBIN. On a bipartisan basis.

Mr. REID. That is right.

Mr. DURBIN. In every subcommittee.

Mr. REID. Yes. And things that Senator COCHRAN did not want in, Senator INOUYE, being the gentleman he is, said: OK. That is what I will tell my caucus.

Mrs. MURRAY. Will the Senator yield for a question?

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

Mr. REID. Yes, I will yield for a question, and, of course, I maintain the floor.

Go ahead.

Mrs. MURRAY. Mr. President, I ask the Senator to yield for a question.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I would ask the leader through the Chair, is he aware that the bill that is before us, that apparently we do not have enough votes for now, has gone through a very long committee process? The transportation and housing bill that I worked with my Republican colleague on, I did not agree with all of his requests, but I gave him a lot in this bill, as we worked our way through it and passed it out of subcommittee, passed it out of the full committee, a committee of which the minority leader is a member.

All of the bills that are involved in this omnibus bill—every one of them—went through a long, long process of committee hearings, subcommittee markups and passage, and full committee markups and passage.

The changes to this bill that have come to the floor have come as a result not of a change in policy, but because we all were told that in order to get an omnibus passed, we had to reduce the amount of that bill that passed out of committee—each of those bills a significant amount—to meet the McCaskill-Sessions level. So we went back and cut a significant amount out of each one of our bills. The result is the omnibus bill before us.

So the 2,000 pages that we are referring to have worked their way through a process. I would ask the leader if he knows this. And the difference is, we had to cut money to meet the level of Sessions-McCaskill. That is what we have before us. And that is what we are being told, after a year's worth of work, that somehow we do not have the capability of knowing what is in the bill. Is the leader aware of that?

Mr. REID. I am aware of it. But my friend, the Republican leader, wants to ask a question or make some statement. But I would say this to my friend from Washington, remember, this bill, which is 1,900 pages long, consists of the work of 12 subcommittees.

Mrs. MURRAY. Right.

Mr. REID. It is work that has been done over the last year, or more in some instances, to come up with a product. So if you break it down per subcommittee, it is certainly a reasonable number of pages on each subcommittee. Remember, there are 12 subcommittees that are a part of it.

I would be happy to yield, without losing the floor, to my friend, the Republican leader.

Mr. MCCONNELL. I was just going to ask my friend—it is hard to ask a question without making something of a statement in connection with it, if that is OK.

Mr. REID. That is fine.

Mr. MCCONNELL. I was not talking about the process by which the bill was developed in committee. And I started off, I would say to my friend from Nevada, commending the committee for its work. What I was commenting upon was the lack of taking the bill up on the floor of the Senate—over $1 trillion, the basic work of government.

And so, Mr. President, I would ask my friend, why, if these bills enjoy bipartisan support—and they did—why were they not brought before the full Senate and passed? I think I would say to my friend, I expect it is because you had other priorities. And this is the basic work of government. Why did we not bring any of these bills before the Senate floor?

Mr. REID. I hope the court reporter will take down the smile I have on my face because the answer to the question is kind of easy. We have had to file cloture 87 times in this Congress because, on everything we have tried to do, we have been obstructed. So that is the reason.

Everyone knows we have had some very big issues. When President Obama was elected, we found ourselves in a deep, deep hole. It was so deep, so deep. During the prior administration, we lost 8 million jobs. The month that President Obama and President Bush shared the Presidency, in January—that month—we lost 800,000 jobs. So we had a lot to do.

Now, I know people criticize our doing health care for various reasons. There is criticism we did the bank reform bill, Wall Street reform. We did housing reform. We had a very, very busy Congress to try to dig ourselves out of the hole.

So I say to my friend, who, like me, has been on the Appropriations Committee—I am not on it now but he is—the Appropriations Committee is a wonderful committee. Everyone here knows why we did not have the individual appropriations bills. I say to my friend, I hope next year we can get them done. But I think there is more of a chance next year because we have gotten a lot done to help get ourselves out of the hole we found ourselves in because of the previous 8 years which created the big hole we had to kind of dig out of.

Mr. REID. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 5281.

The PRESIDING OFFICER. Will the Senator withhold for a second?

Mr. REID. Yes, I will.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate returns to legislative session.

Mr. REID. Thank you, Mr. President.

The PRESIDING OFFICER. The majority leader.

REMOVAL CLARIFICATION ACT OF 2010

Mr. REID. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect the H.R. 5281.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments numbered 1 and 2 of the Senate to the bill (H.R. 5281) entitled ''An Act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes'' and be it further

Resolved, That the House agree to the amendment numbered 3 of the Senate with a House amendment to the Senate amendment.

MOTION TO CONCUR

CLOTURE MOTION

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment No. 3, and I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.