

the 1990s, they cannot disregard these important fundamentals of transparency and strong Federal oversight authority.

I could go on and on for my colleagues on my own personal experience with the western energy crisis that happened in electricity markets in 2000 and 2001.

We saw that during the electricity deregulation experience which started in the mid 1990s, people argued that electricity was just another commodity. But it is really a very critical element to our economy.

Many experts cautioned that electricity was too vital a part of our economy and way of life to let these markets go without the transparency and oversight that is essential.

We all know the rest of the story. We saw that deregulation set the table for some of Enron's spectacular manipulation schemes of 2000 and 2001 among other bad actors, that caused more than \$35 billion in economic loss and cost our nation over 589,000 jobs.

Again, only after the crisis was over, did Congress step in. Only after the crisis did Congress give the Federal Energy Regulatory Commission, and now the FTC, more regulatory authority on energy markets. And once more, Congress illustrated that it prefers to act after the fact.

So I ask my colleagues: When are we going to learn?

When are we going to quit deregulating these critical markets without much thought to the transparency and oversight that is critical for markets to operate and function correctly?

When are we going to learn that when we take our eye off the ball, Wall Street raids the cabinet and, as the President say, Wall Street gets drunk?

I mentioned that later today we will be holding a hearing in the Energy Committee to examine the oil futures market. We will examine why we need meaningful legislation to close the loopholes that exist in those dark markets.

This deregulation has helped spark today's price super-bubble, as George Soros warned at a June 3 Commerce Committee hearing, that is driving our markets to no longer be based on supply-and-demand fundamentals.

In one fell swoop, this deregulation did a number of things that enabled today's perfect storm to brew.

No. 1, we let these newfangled financial instruments called credit default swaps go unregulated, and it made it easy to use bad debt to finance home mortgages.

As George Soros wrote in his book documenting the credit crisis:

At the end of World War II, the financial industry—banks, brokers, other financial institutions—played a very different role in the economy than they do today.

He went on to explain, as I said, that banks and markets are not as strictly regulated today as they were in the past.

In 2000 we deliberately chose not to learn this harsh lesson and allowed

these new, volatile financial derivatives that are the heart of today's markets to go unregulated by the Commodity Futures Trading Commission.

What we need to do is make sure we learned this lesson, to go back now and close the loopholes that exist and make sure the agencies that are in charge of oversight actually do their job. We do not want the American people to continue to have to pay for mismanagement and lack of oversight by not having transparency in these markets. We need to make sure these agencies are accountable.

The bottom line is we have a CFTC that is more lax in allowing traders to run amok than protecting families who live on Main Street in America. That is why I continue to hold up CFTC nominations. We need a more sophisticated regulatory regime oversight, including regulators who will be aggressive policemen on the beat. We need to collect more data to make sure that markets are not being manipulated. We need to make sure the market is driven by basic market fundamentals and not greed.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Would the Presiding Officer advise the Senate of the procedure at this time?

The ACTING PRESIDENT pro tempore. The minority has 2 minutes remaining in morning business.

Mr. WARNER. I yield back the time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3001, which the clerk will report.

The bill clerk read as follows:

A bill (S. 3001) to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Reid amendment No. 5290, to change the enactment date.

Reid amendment No. 5291 (to amendment No. 5290), of a perfecting nature.

Motion to recommit the bill to the Committee on Armed Services with instructions to report back forthwith, with Reid amend-

ment No. 5292 (to the instructions of the motion to recommit), to change the enactment date.

Reid amendment No. 5293 (to the instructions of the motion to recommit to the bill), of a perfecting nature.

Reid amendment No. 5294 (to amendment No. 5293), of a perfecting nature.

Mr. WARNER. Mr. President, I would like now to address the Senate with regard to my interpretation of the many constructive efforts that have gone on with the chairman and myself and other colleagues to try to move this bill forward. As I speak for a few minutes, I urge my distinguished chairman to engage me in any questions or colloquy if he has views that could be at variance to what I express.

I have an amendment at the desk. It is No. 5569. I shall not call it up at this time. The history of that amendment is as follows:

As many of our Senate colleagues are aware, this past January 29, the President of the United States issued Executive Order No. 13457 instructing the executive branch that agency heads should not base funding decisions on language in a committee report or conference report or any other nonstatutory statement of the views of Congress. The President took this unprecedented step because he believes—and to some extent I share his concern—that it is necessary to reduce the number and cost of what we refer to as earmarks substantially; that is, to reduce them substantially and to make the origin and purpose of the earmark more transparent. To accomplish these objectives, the Executive order requires that henceforth earmarks, as well as any other funding direction from Congress in its exercise of the power of the purse, must be included in the text of the bill voted on by Congress and presented to the President.

In response to the Executive order, I offered an amendment during committee markup, on behalf of Senator McCain and myself and others, which would have put the committee's funding tables in the text of the bill. This was the most simple and direct way to comply with the Executive order. My amendment, after deliberation in committee, was defeated on a 12-to-12 vote. As a result, as reflected in section 1002 of the bill, the committee decided to incorporate our funding tables into the bill by reference; that is, by a provision that states that each funding table in the committee report is incorporated into the act and is made a requirement of law to the same extent as if the funding table was included in the text.

Once our bill reached the Senate floor for consideration by the full Senate, a colleague, Senator DEMINT, filed amendment No. 5405 which, again, takes up the same issue.

Senator DEMINT's amendment would strike section 1002 in its entirety from the bill, thereby removing the funding tables from the bill. The result, as I interpret it, of adoption of the amendment would be that our funding tables would remain only in the committee

and conference report, setting up a conflict with the Executive order. Direction by Congress on the specific funding levels throughout the defense budget would be advisory only.

The President's Executive order, on the other hand, would continue to require agency heads to ignore congressional funding directions unless it is in the text of bills enacted into law.

While I appreciate the efforts by our distinguished colleague from South Carolina and his concern about the use of the incorporation-by-reference technique which I opposed during committee markup, I am just as concerned about striking the reference to the funding tables in the bill and leaving them only in the committee and conference report, given the President's Executive order. While the DeMint amendment would have the positive impact of making earmarks advisory only, it would also undercut the legal authority of every other congressional funding decision which differed from the President's budget. In short, the DeMint amendment would seriously impair the ability of the Senate and Congress to meaningfully exercise the power of the purse. The Armed Services Committee and the Senate and Congress as a whole would lose the ability to direct and enforce cuts in funding, additions to funding that were, in our discretion, required in the President's budget, or to restructure programs that are part of the defense budget.

The amendment I have offered and wish to offer as an alternative to Senator DeMINT is No. 5569. My amendment takes the same approach which I argued during the committee markup. It takes the funding tables from our committee report and puts them directly into the bill text. The amendment is extraordinarily long. It goes on for 225 pages, but it complies with the Executive order in the most direct way possible. As a result, all of our funding decisions are transparent, and each item of funding is subject to further debate and amendment by the full Senate. If the funding decisions are adopted by the Senate and sustained through the conference between the two Houses, they will be included in the text of the bill as passed by Congress and presented to the President. Changes to the funding decisions recommended by the committee are subject to the normal process of amending a bill under the Senate rules and procedures.

I am aware if my amendment was adopted, it would increase the burden of producing our bill and conference report by several days. Many people would be involved in that rather arduous process. We are informed that the best estimate is that about 4 additional days would be required for the committee staff, the Government Printing Office, and supporting House and Senate staff offices to process the detailed data that appears in the funding tables, if they were incorporated into the bill, assuming the Government Printing Of-

fice could prioritize its attention and resources on our bill. By "prioritize," I mean what other work from other committees of the Congress, House and Senate, would be before those various administrative sections.

Given the time constraints we face, these 4 additional days add significantly to the challenges of completing a conference between the House and Senate and passing a conference report in both Chambers before the target date for adjournment. While I acknowledge these challenges, I believe my amendment will best comply with the Executive order and its laudatory purposes. We must not simply ignore the Executive order and trust the executive branch to follow congressional funding directions, when the President has emphatically said the Congress must express its direction in the text of bills enacted into law.

When Congress exercises its constitutional power of the purse, it should do so in a transparent, open way subject to full debate and amendment. When Congress speaks on its funding priorities, it should do so decisively, and its pronouncement should have the binding force of law subject only to the President's veto.

The current posture is, this is an important issue. The distinguished chairman and I, together with our staffs, have worked on it. We have recognized the precarious nature of the bill in terms of its ability to be put together, brought to the desk of Senators, and then, subsequently, the conference report, and likewise that being properly put together to comply with this amendment and others. It is a challenge. I have discussed it with the chairman. I guess perhaps being an optimist, I believe if my amendment were adopted, it would reach the result of many colleagues, and we could go forward and do our very best to shorten the time normally in the history of these bills that is used by the conference.

This is our 30th bill. Senator LEVIN is chairman of the conference this year. I would try in every way to support him, if he so desired to try to move, subject to the adoption of this amendment, this bill through the conference. This bill is so important to our country. It is so important to so many Members of our body. We have pending a managers' amendment which Senator LEVIN and our staffs have been working on for the last 4 or 5 days. It is close to 100 amendments which we have reconciled in such a way that, subject to UC, they could be adopted and immediately become a part of the bill prior to any cloture action that will take place as scheduled at 3 o'clock today. That embraces the work and the desires and the objectives of so many Members.

I am not here to fault the fact that a hold or objection is put on a UC to move that package; it is to state the fact. But that objection largely emanates from the issue which I have tried to describe in a very pragmatic and

forthright way to help colleagues better understand the current procedural dilemma that faces the body with regard to the bill.

The committee and my distinguished colleagues will work as hard as we can to get this bill through. This is one roadmap; there may be a better one.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Virginia for outlining the history of this issue in which we are involved. I am particularly gratified that he now agrees the DeMint amendment will be a significant abdication of legislative power to the executive branch. The reason that would be true is, there would be no reference to the line items we have worked so hard on in law or by reference in law, and that would mean the only thing that would be remaining would be a committee report that has all the work of our committee, not just the earmarks which we have added but also the lines we have added or subtracted to what the President has requested. That is the essential point relative to the DeMint amendment. It would be an absolutely revolutionary change in the powers of the purse, shifting a great deal of that power to the executive branch.

I am delighted the Senator from Virginia has stated it exactly that clearly, or approximately that clearly, so that, hopefully, we can, if not unanimously but on a bipartisan basis defeat the DeMint amendment, if it is offered. Then the question comes up: How can we then incorporate all our effort in committee into the law? There is a lot of problems with doing it, which we pointed out during the committee debate, including the lack of flexibility that this would result in for the President in terms of reprogramming because now every line becomes a program, and that means it would be harder to shift money than it is now because it is easier to shift money within a program through reprogramming than it is between programs. That was an argument which we used in committee. We believe it is true that the executive branch will have less flexibility when it comes to reprogramming if every single line is in law. However, if that is what this body wishes to do—to make it less flexible for the President to offer reprogramming suggestions—that is a problem the executive branch should have, not ours.

Our problem is it would be difficult, if not impossible, to get a conference report—first of all, it is difficult enough to get to conference, but then it would be extremely difficult, if not impossible, to bring a conference report back in the next couple weeks. We have gone through these numbers with the minority. We have a clear assessment by the Government Printing Office that it would add about 4½ days to their work if every single line were made part of the bill rather than being

simply incorporated by reference in the bill, as it now is. We should not take a chance on jeopardizing this bill. This bill is too important to be jeopardized.

The difference between incorporating all these lines by reference in the bill and actually printing them in the bill is either minor, minute or nonexistent legally. What this bill does is incorporate by reference all these lines. They are incorporate into the bill. They are transparent—as transparent as though they were printed in the bill. This green document is no less transparent than this white document. They are both equally transparent. The work of our committee is laid out in the moment in the green document. In this white document, which is the bill, we incorporate by reference in the bill all the line items so they are in the bill, and they can be changed by an amendment which says no money will be spent or less money will be spent for a particular item. It is very readily addressable by the Senate on the floor. The transparency issue is the same. They are both transparent and should be.

So then the question becomes: Is the nonexistent or minute difference between incorporating all these charts in here by law or actually printing them in here, should that risk the passage of this bill? They can be addressed by amendment on the floor of the Senate, even though they are incorporated by reference.

Now, this bill, as my good friend from Virginia says, is too important for us not to pass. We have never not passed an authorization bill, and this should not be the first year, when we have troops in harm's way, when we do not pass a Defense authorization bill. There are hundreds of provisions in here which directly affect the troops and their families. It would be unconscionable for us not to pass a Defense authorization bill. The reason for jeopardizing it simply does not hold water.

So that is the dilemma we are in. If the Warner amendment is adopted, it would seriously jeopardize the chances of being able to pass a bill, even if we can get to conference in the next couple of days. That assessment was made over the weekend in terms of the number of days' delay that would result. That assessment was made by the Government Printing Office. They spent 700 person hours over the weekend at the Government Printing Office to give us this assessment. This is not some casual assessment off the back of an envelope; this is a very serious assessment that was made at huge expense over the weekend in order to give us the most accurate idea as to what the delay would be if we had to print each one of those thousands of lines in the bill itself, instead of incorporating them in the bill by reference. We should not jeopardize the passage of this bill.

That is the only difficulty I now have as a legislator with the Warner amendment. The other difficulty, which we

pointed out in committee, has to do with the lack of flexibility that would result to the executive branch in their reprogramming requests. That is a problem the executive branch needs to face, I would think, but as a legislator, what we have to protect is the power of our purse, the power of this Congress to make changes. That is protected in the Warner amendment.

What the Warner amendment does is put at risk this bill, as it may be physically impossible to get to conference, the conference completed, and a conference report back by the end of next week. If we knew there was going to be a lameduck, there would be no problem because we could do this in a lameduck session no matter how much time it took between now and then, but we don't know that there will be a lameduck session.

So the question is whether we are willing to take this risk. I, for one, cannot in good conscience risk the passage of this bill. Although I don't have any problem now with the Warner amendment in terms of its substance, it is what it would result in, in terms of the bill not being able to be adopted as a practical matter.

My problems with the DeMint amendment are very serious and severe. I hope that amendment is not offered, and if it is, I would hope, on a bipartisan basis, it would be rejected by a Senate which has the responsibility to abide by the Constitution of the United States and maintain the power of the purse.

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

Mr. WARNER. Mr. President, I am looking at a memorandum prepared by our staff, and I presume it has been shared with the chairman's staff. We should state to colleagues that what we learned by virtue of a long process that many people were involved in over the weekend is as follows:

In summary, incorporation of the funding tables into the bill would add about 4 days to the process: About a half day for committee staff to prepare the files for the GPO, although much could be done during the conference; 3 days for the GPO to convert the files and proofread them; and about half a day for the committee staff to proofread them when GPO returns the bill in printed form.

Let's sort of chart out a calendar. Today, we are, at the present time, scheduled to have a cloture vote, and if cloture comes about, there is an entirely different scenario, if it is voted in, by which we continue to address the bill. But if by any chance we could reconcile our differences—and we would want Members to know that last night the majority presented to the minority a draft UC that is now being reviewed by my leadership. I am at this moment unable to give the details of what decisions will be made or what options, other than what was presented to us, may be returned back by way of com-

promise. That is to take place in the coming hours, before 3 o'clock. But there is still the possibility that we could get a UC through that would resolve much of this problem. Then, if we took final passage, say, even late tonight—I mean if we can get the managers' package through, we will have close to 100 amendments in addition to those already handled, and that package is basically equally divided with Republican and Democratic amendments—let's say we have final passage tonight or tomorrow. How does the chairman then plot the timetable by which he used pretty strong language, that this amendment of mine jeopardizes the bill not being passed? Would the chairman give us his basic schedule?

Mr. LEVIN. I thank the Senator. Before I do that, Senator WEBB came to the floor when I assured him he would be able to discuss his amendment, and I am wondering if we could ask unanimous consent that Senator WEBB be recognized as soon as our colloquy is completed and then that Senator COLLINS be recognized after Senator WEBB.

Mr. WARNER. I was not present when either of these Senators appeared. I am being advised by our cloakroom staff that Senator COLLINS came early this morning, at which time the assurance was given to her by someone that she could have 11:30. Now, I don't know quite how to sort this out.

Mr. LEVIN. I wonder if I could inquire of the Senator from Maine how much time she would be using.

Ms. COLLINS. Ten minutes.

Mr. LEVIN. If I could inquire of the Senator from Virginia how much time he would be using.

Mr. WEBB. About 10 minutes.

Mr. LEVIN. If either had said 9 minutes, they would have had a better case.

I wonder if the two Senators whom we referred to could get together and resolve this issue for us as to who would go first and who would go second. Could we ask the two Senators to perhaps help us out on that, and then I would ask that after we talk, if we could have a UC as to that procedure.

In terms of the schedule, assuming we could get the bill passed by tomorrow, which would probably be lucky because there are a number of amendments that are in that unanimous consent agreement that are referred to specifically that have time connected to them—if we could get this bill passed by tomorrow, or cloture invoked, then there is 30 hours of postcloture. We don't know whether that would be used by any of our colleagues. They have a right to do that, and around here, as we know, frequently that 30-hour period is used. If it is not used, we would then have to name conferees, which hopefully would be done fairly quickly. Then the House reviews the Senate bill and determines the committee jurisdiction and names their conferees. That, at a minimum, is

2 to 3 days for the House to do that—to go through that process to see what committees have jurisdiction over the language in our bill, other than the Armed Services Committee. Then the House and the Senate staffs have to match up these provisions for conference. That usually takes 2 days—usually takes 2 days. So if we are lucky, we could start conference 3 to 4 days after passage of this bill, although it usually takes a longer period of time. So if we pass this bill tomorrow, that would take us to the end of the— that would take the House to the end of the week to be ready for conference, if we started conference on Monday. Whatever period the conference takes, even if it took 2 or 3 days, it is the middle of next week. That is before the 4-day period is triggered.

Mr. WARNER. Mr. President, if the Senator will yield, the chairman and I jointly agreed to ask our staffs to begin to preconference this bill. There has been a considerable amount of work done in the form of preconfereencing a number of issues.

Mr. LEVIN. There has.

Mr. WARNER. Once the House sees the finality of the Senate bill, I am of the view that the balance can come together fairly swiftly. So I think we have somewhat of a difference of opinion as to the ability of all people of good intention to get together and crunch this time so we can meet the projected deadline of adjournment on the 26th, as I understand it.

Mr. LEVIN. I don't think we have any difference on that, in terms of the ability of people of good faith to get things done.

Mr. WARNER. Yes.

Mr. LEVIN. This assumes maximum crunch, what I specified for the Senator from Virginia. This is an optimistic view of the timetable, where everybody is using 24/7, to the extent that human bodies permit. We don't have any difference in terms of that.

I am wondering if our two friends from Virginia and Maine have resolved who would go first. Could we then allow them to proceed in the order they have agreed upon, and then the Senator from Virginia and I could pick this up after that.

Mr. WARNER. Let's do that. Mr. President, couldn't we just do this informally? Once we ask unanimous consent, we are in a whole new framework of procedures. I think we recognized that, I believe, Senator COLLINS—and my distinguished colleague from Virginia has graciously allowed her to go first, and she would be followed by the Senator from Virginia.

Mr. LEVIN. Mr. President, I ask unanimous consent—

Mr. WARNER. We are back to UC. The word triggers—

Mr. LEVIN. It shouldn't trigger a problem. We use it all day around here. I am simply stating the order for the two Senators to know.

I ask unanimous consent that the Senator from Maine be recognized for

10 minutes, and the Senator from Virginia then be recognized for 10 minutes.

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

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I thank my colleagues for finally working this out.

I rise today in strong support of the Fiscal Year 2009 National Defense Authorization Act. Let me begin by thanking the committee's distinguished chairman, Senator LEVIN, for his leadership, and also Senator WARNER, who is taking on double duty, acting as the ranking Republican on the committee in the absence of Senator MCCAIN. I want to take this opportunity to thank the senior Senator from Virginia for his years of service on the committee. He has been a true friend to me and to the members of our committee and the armed services of this Nation, and his guidance, wisdom and, above all, his civility in all matters will be greatly missed. I deeply admire him, and I thank him for his leadership on this bill and on so many other issues.

Mr. WARNER. Mr. President, I humbly thank my distinguished colleague and longtime friend. I am certain she can take my place.

Ms. COLLINS. I thank the Senator.

Mr. President, this legislation will provide essential training, equipment, and support to our troops as they engage in combat overseas and in exercises at home. It also offers an important opportunity for continued debate as to our Nation's strategy in Iraq, especially the cost of reconstruction in Iraq.

I am particularly pleased the legislation we are now debating contains an amendment that Senators BEN NELSON, EVAN BAYH, and I offered to alleviate the burden on the American taxpayers of our operations in Iraq. It is time for the Iraqis to pay more of the costs of securing, rebuilding, and stabilizing their own country. During the Armed Services Committee markup, I joined Senators NELSON and BAYH in authorizing the provisions that are in this bill which shift to the Iraqi Government the costs of securing and rebuilding Iraq in order to lift that burden from the shoulders of the American taxpayers.

While our country is struggling with a soaring deficit, the Iraqi Government is awash in oil revenues. The Special Inspector General for Iraq Reconstruction has estimated that Iraq's oil profits will reach \$70 billion this year. That is far more than the Government of Iraq anticipated when it established its budget of \$47 billion.

Similarly, on August 5, the Government Accountability Office issued a report that provided an in-depth examination of Iraqi revenues, expenditures, and surpluses. This GAO report underscores the need for our amendment requiring the Iraqi Government to as-

sume greater responsibility for its own costs. The report verifies the stronger financial position of the Iraqis due to the unanticipated windfall brought about by record-high oil revenues. According to the GAO, Iraq is likely to receive between \$67 billion and \$79 billion in revenues from oil sales in 2008 alone—twice the average of revenues between 2005 and 2007. Yet the Iraqis still have not adequately invested in reconstruction efforts in their own country. In fact, they have spent just 28 percent of the \$12 billion investment budget.

In addition, the Iraqis had approximately \$29 billion in surplus funds that actually went unused during the past 2 years. When Americans are struggling with the high cost of energy, a weakening economy, and a burdensome deficit, there is simply no reason for the American taxpayers to continue paying for the major reconstruction projects, for the salaries, training, and equipping of the Iraqi security forces, or the cost of fuel in a country that has the second largest oil reserves and a burgeoning budget surplus.

Our bipartisan amendment would shift these costs to the Iraqis. Specifically, our amendment prohibits America's tax dollars from being spent on major reconstruction projects in Iraq. It requires the Iraqis to assume the responsibility of paying for the salaries, training, and equipping of Iraq's security forces, including the army, the police, and the Sons of Iraq; it initiates negotiations between our Government and the Iraqi Government on a plan to cover other expenses, such as the fuel used by American forces when they are in-country.

Our proposal was approved unanimously by the Senate Armed Services Committee, and it represents a significant bipartisan change in our policy in Iraq.

The fact is, the American taxpayers cannot wait for the administration to act. We must require this significant reform by changing the law. Asking the Iraqis to take more responsibility for their own security and for the reconstruction of their own country will give them a sense of ownership, and it makes common sense given Iraq's growing budget surplus. That is the purpose of our provision, and I urge my colleagues to support the proposal that we have incorporated into the Defense authorization bill.

The legislation before us also includes a strong commitment to strengthening Navy shipbuilding by including more than \$14 billion for shipbuilding programs. It fully supports the Navy's shipbuilding priorities. The declining size of our naval fleet is of great concern to me. This legislation is an important step toward reversing that troubling decline.

The Chief of Naval Operations, Admiral Roughead, has put forth a plan for a 313-ship Navy. It would address longstanding congressional concerns that naval shipbuilding has been inadequately funded. The instability and

inadequacy of previous naval shipbuilding budgets has had a number of troubling effects on our shipbuilding industrial base and has contributed to significant cost growth in the Navy's shipbuilding programs. The 313-ship plan, combined with more robust funding by Congress, will begin to reverse the decline in Navy shipbuilding.

This bill authorizes funding for construction of a third *Zumwalt* class destroyer. The DDG-1000 represents a significant advancement in Navy surface combatant technology.

It is critical that the construction of the first two DDG-1000 destroyers continue on schedule without further delay. It is equally important that Congress provide full funding for the third ship.

The dedicated and highly skilled workers at our Nation's surface combatant shipyards, such as the Bath Iron Works in my great State of Maine, are simply too valuable to jeopardize with any cuts or delays in this program. To date, the Navy has spent more than \$11 billion on research, development, detailed design, and advanced procurement for this program. In addition, industry, including not just our shipyards but also a multitude of vendors in over 48 States, has made significant investments in preparation for building this new class of ship. It is critically important in these tight budget times that we not throw away the investment our country has made as the Navy prepares to build the destroyer for the 21st century. That is why I am so concerned that the House version of the Defense authorization bill eliminates funding for the construction of a third ship, and even more troubling, does not provide sufficient funding for the construction of any surface combatant.

Mr. President, as the threats from around the world continue to grow, it is vitally important that the Navy have the best fleet available to counter those threats, keep the sealanes open, and to defend our Nation.

Bath Iron Works and the shipyards of this country are ready to build whatever ships the Navy needs. But it is vitally important that there not be a gap in shipbuilding that jeopardizes our industrial base. I am pleased with the funding provided in this bill. I look forward to resolving this important issue in conference.

Earlier this year, the Navy proposed to truncate the DDG-1000 program after just two ships. In July, after further evaluation, the Navy realized the terrible effect that such a decision would have on the industrial base and on our shipyards, in particular. It would have created a gap in work for Bath Iron Works because of the delays and costs inherent in restarting the DDG-51 line.

It is important to note that Bath Iron Works is prepared to build whatever ships the Navy needs, but that there must be a stable work plan to sustain the industrial base. The best way to achieve that goal, and to take

advantage of the billions of dollars already invested in the DDG-1000, is to proceed with the third ship at this time even if the Navy ultimately decides to build more DDG-51s.

The House version of this bill would also require that the next-generation class of amphibious ships be powered by nuclear propulsion systems, even though the shipyard that currently builds those ships does not have either the facilities or certifications required to construct nuclear-powered ships. This provision could dramatically increase the costs of future amphibious force vessels, with some estimates stating it could be as much as \$800 million more per ship. This would reduce the overall number of ships that could be built at a time when the Navy is seeking to revitalize and modernize its fleet. It is completely contradictory to the Chief of Naval Operations 313-ship plan.

I am pleased that our Senate bill also includes funding for additional littoral combat ships. While this program has suffered a number of setbacks, the Navy, with the help of Congress, has taken significant steps in order to begin to get this program under control. These ships are important for the Navy in order to counter new, asymmetric threats, and the Navy needs to get these ships to the fleet soon.

I am pleased that the Senate Armed Services Committee also agreed to my request for \$25 million in additional funding to continue the modernization program for the DDG-51 *Arleigh Burke* class destroyers. This program provides significant savings to the Navy by applying some of the technology that is being developed for the DDG-1000 destroyer and back fitting the DDG-51, which may reduce the crew size by 30 to 40 sailors.

The Senate's fiscal 2009 Defense authorization bill also includes funding for other defense-related projects that benefit Maine and our national security.

The bill also authorizes \$20.6 million for construction of a new drydock support facility at the Portsmouth Naval Shipyard in Kittery, ME. This drydock, and its accompanying support facility, are essential for the shipyard's future work on *Virginia*-class submarines, the Navy's newest attack submarine.

Funding is provided for machine guns and grenade launchers, both of which are manufactured by the highly skilled workers at Saco Defense in Saco, ME.

In addition, the legislation provides \$1.5 million to the University of Maine for the continued research and development of modular ballistic tent insert panels. These panels provide crucial protection to servicemembers in temporary dining and housing facilities in mobile forward operating bases in Iraq and Afghanistan.

The bill also authorizes an additional \$1.5 million for the University of Maine's work on high temperature sensors that is important to the Air Force. These sensors are capable of sensing

physical properties such as temperature, pressure, corrosion and vibration in critical aerospace components.

The legislation also provides \$3.5 million for further development of the rip-saw ground vehicle, an innovative unmanned tank-like vehicle, manufactured by Howe and Howe Technologies in North Berwick, ME. This technology will have the ability to provide force security for our troops by taking them directly out of harm's way.

Finally, I am pleased that this bipartisan Defense bill also authorizes a 3.9 percent across-the-board pay increase for servicemembers, half a percent above the President's budget request.

This bill provides the necessary resources to our troops and our Nation and recognizes the enormous contributions made by the State of Maine. The bill provides the necessary funding for our troops, and I offer it my full support.

Mr. WARNER. Mr. President, if I might ask my colleague for 30 seconds. I listened carefully to the Senator's thoughts on the Iraqi funding issue. I commend the Senator for that. We have amendments that address it. In the managers' package are certain amendments that the Senator from Maine put in. That is a very important issue. We owe no less responsibility to the American taxpayers but to assure that every single dollar going into that area at this time is absolutely essential for the purpose of the mission of our troops and otherwise, and that the Iraqi Government be made aware that they are a sovereign government now and such expenses as can be should be borne by that Government.

Ms. COLLINS. I thank the chairman. I agree with his comments. I am delighted with the support he and the chairman have given to this effort. I thank the Senator.

The ACTING PRESIDENT pro tempore. The junior Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I ask unanimous consent to speak for up to 15 minutes on amendment No. 5499.

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

Mr. WEBB. Mr. President, I will begin by associating myself with many of the remarks made by the Senator from Maine. As someone who served as the Secretary of the Navy, along with the senior Senator from Virginia, I have strong feelings about the strength of the Navy and the size of our fleet.

I introduced an amendment on Friday that I would like to urge my colleagues to examine and support. We are in an odd situation in the business of Government at the moment in that the international authority for the United States to be operating in Iraq will expire at the end of this year. The U.N. mandate, through the U.N. Security Council, expires at that time.

Since last November, this administration has been negotiating what is called a Strategic Framework Agreement that is intended to replace the

international authority of that U.N. mandate. Two questions have come up, however, with respect to what the administration is doing. The first is the timeline. This is an agreement that, by all accounts, has not yet been fully negotiated. It is being negotiated by the administration without the participation of the Congress, and there are indications from Iraq that the Iraqi Government negotiators themselves have serious questions that had not been anticipated at the beginning of this process. So we have a potential, with the timeline, that the U.N. mandate will run out at the end of the year and there will not be an agreement in place that authorizes the presence of our forces in Iraq under international law.

The larger question is constitutional. What entity of the Federal Government has the authority to enter the United States into a long-term relationship with another government? Both of these are serious issues. I submit that the conditions under which we will continue to operate in Iraq militarily, diplomatically, economically, and even culturally, are not the sole business of any administration. These questions involve the legal justification under domestic and international law for the United States to operate militarily—and quasi-militarily, by the way, given the hundreds of thousands of independent contractors that are now essentially performing military functions in that country.

There are questions about the process by which the U.S. Government decides upon and enters into long-term relations with another nation—any nation. In that regard, there are serious questions about the very working of the constitutional system of our Government.

This administration has claimed repeatedly since last November that it has the right to negotiate and enter into an agreement that will set the future course of our relations with Iraq without the agreement, the ratification, or even the participation of the Congress.

The administration claims the justification for this authority can be found in the 2002 congressional authorization for the use of force in Iraq or, as a fallback position, the President's inherent authority, at least from the perspective of this administration, as Commander in Chief.

Both of these justifications are patently wrong. The 2002 congressional authorization to use force in Iraq has nothing to do with a negotiation of a government which replaced the Saddam Hussein government which did not exist in October of 2002, as to the future relations culturally, economically, diplomatically, and militarily between our two countries.

On the other hand, we are faced with the reality that the U.N. mandate will expire at the end of this year and that this expiration will terminate the authority under international law under which the United States is operating in

Iraq at a time when we have hundreds of thousands of Americans on the ground in that country.

I and several other colleagues have been warning of this serious disconnect for 10 months. Many of us were trying to say last November that apparently the intention of this administration has been to proceed purely with an Executive agreement to drag this out until the Congress was going out of session, as we are about to do, and then to present essentially a *fait accompli* in the sense that with the expiration of the international mandate from the United Nations at the end of the year, something would have to be done, and that something would be an Executive agreement that to this point the Congress has not even been allowed to examine. We have not been able to see one word of this agreement.

We tried to energize the Congress. We met with all of the appropriate administration officials. There have been hearings. There have been assurances from the administration that they will consult at the appropriate time, as they define it. We have seen nothing. And so we are faced with a situation that is something of a constitutional coup d'état by this administration.

I say to my colleagues that we all should be very concerned. At risk is a further expansion of the powers of the Presidency, the result of which would be to affirm in many minds that the President—any President—no longer needs the approval of Congress to enter into long-term relations with another country, in effect committing us to obligations that involve our national security, our economic well-being, and our diplomatic posture around the world without the direct involvement of the Congress. This is not what the Constitution intended. It is not in the best interest of the country.

This amendment, which I offered on Friday, is designed to prevent this sort of imbalance from occurring and at the same time it recognizes the realities of the timelines that are now involved with respect to the loss of international authority for our presence in Iraq at the end of this year.

The amendment is a sense of the Congress. On the one hand, it is a sense that we should work with the United Nations to extend the U.N. mandate up to an additional year, giving us some additional international authority for being in Iraq, if needed, taking away the pressure of this timeline that could be used to justify an agreement that the Congress has not had the ability to examine, but also saying that an extension of the U.N. mandate would end at any time where a Strategic Framework Agreement and a Status of Forces Agreement between the United States and Iraq would be mutually agreed upon.

The amendment also makes the point that the Strategic Framework Agreement now being negotiated between the United States and Iraq poses significant, long-term national security

implications for this country, and this would be the sense of the Congress. We need to be saying that. The Iraqis need to hear it from the Congress.

The amendment also puts Congress and the administration on record regarding the many assurances that the Bush administration has made to fully consult with the Congress with respect to all the details of the Strategic Framework Agreement and the Status of Forces Agreement and that copies of the full text of these agreements will be provided to the chairmen and ranking minority members of the appropriate committees in the House and the Senate prior to the entry into either of these agreements.

It is important to say that the Strategic Framework Agreement that has been mutually agreed upon by the negotiators from our executive branch and the Iraqi Government officials will cease to have effect unless it is approved by the Congress. This amendment states that within 180 days of the entry into force of that agreement, the Congress would approve it. We are not calling for the full and complicated procedures of a treaty, but we are saying a majority of the Congress should approve any agreement that has been entered into.

On the one hand, this agreement recognizes the realities of where we are in terms of timelines, but on the other it protects the constitutional processes by which we are entering into long-term relations with other countries, whether it is Iraq or any other country around the world.

We need, as a Congress, to preserve this process. It does not operate in a way that would disrupt our operations in Iraq. I urge my colleagues to join me on this amendment and protect the prerogatives of the Congress under the Constitution.

I understand this amendment will be included in the unanimous consent request that will come for a vote later today. I hope my colleagues will support me on it.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, if I may say, I have been viewing the two drafts of the UCs. Momentarily, I expect the chairman and I will decide how to deal with it. But I assure the Senator that the Webb amendment is in both drafts of UCs.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend Senator WEBB for this sense-of-the-Senate resolution. We have the assurance of the administration that they will share the text with the leadership of the Congress and with the chairmen and ranking members of the Senate and House Armed Services Committees and Foreign Relations Committees. But this goes beyond it and takes an essential step beyond that commitment.

We should be involved in this kind of a long-term relationship. I commend

the Senator from Virginia for his drafting of this amendment. It is very careful. I believe, based on the assurance of Senator WARNER, that it will be included in any UC that is propounded. I hope that UC—any UC—can be adopted and that, indeed, it will include the Webb amendment as having the assurance of a vote.

Mr. WEBB. I thank the chairman and the senior Senator from Virginia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask the Chair to notify me when I have reached the 1-minute mark.

Mr. President, I first want to say, as I rise to support the National Defense Authorization Act of 2009 and honor all of our service members and their families who continue to serve and sacrifice for the sake of the country, that I am very appreciative of the leadership of both Chairman LEVIN and Senator WARNER and, obviously, Senator MCCAIN who has been absent some and Senator WARNER has so ably filled in.

Chairman WARNER will always be chairman to me. He has been my dear friend through many years. What a great service to our country this great American has provided in the true Virginia gentleman tradition. He has always been such an asset to this body and such an asset to our men and women in uniform. I thank Senator WARNER for his great service. I thank him for his friendship, and I thank him for what he does every day for our men and women in uniform.

Mr. WARNER. Mr. President, I humbly acknowledge the gracious remarks, and I express my appreciation.

Mr. CHAMBLISS. Mr. President, last week marked the seventh anniversary of the day our country was attacked by terrorists, resulting in the deaths of approximately 3,000 innocent people. Since that day and for the past 7 years, our Nation has devoted itself to winning the global war on terrorism.

It is astonishing how the commitment of our soldiers, airmen, sailors, and marines has inspired the Afghan and Iraqi people to build their own political framework, improve their security and infrastructure, and promote human rights, freedom, and democracy in their respective countries. I am proud to say that our commitment to and investment in the global war on terrorism is now bearing fruits that are leading to a safer and more democratic world.

All of our accomplishments in this area start with our servicemembers and their families who every day face the challenges, sacrifices, and dangers inherent in the profession of arms. Congress is entrusted with providing the necessary resources, policies, and programs for our servicemembers and military departments in order to ensure their success.

This year's National Defense Authorization Act serves as the vehicle to do just that and provides the resources and policies to carry out the missions we ask of our military.

Specifically, the bill provides the following:

An increase of 7,000 soldiers, 5,000 marines, and 3,371 full-time personnel for the Army National Guard and Army Reserve over the 2008 force structure levels; a 3.9-percent pay raise for all military personnel; a total of \$125 billion for military personnel to improve allowances, bonuses, permanent change of station moves, and death benefits; reauthorization of over 25 types of bonuses and special pay to promote enlistment and continued military service; more rigorous oversight procedures for military housing privatization projects; and a report to Congress on the implementation of the Yellow Ribbon Reintegration Program.

I also have several amendments to the bill, all of which I understand will be included in a manager's package. I wish to discuss these amendments very briefly.

First, last year, I worked with many of my colleagues to include a provision in the National Defense Authorization bill allowing for members of the Guard and Reserve who deploy in support of a contingency operation to receive their retired pay early based on how much time they deploy. This year, Senator KERRY and I, along with 15 other Senators, have offered an amendment that would make this provision retroactive to include any duty performed after September 11, 2001.

This amendment recognizes a significant sacrifice that members of the Guard and Reserve and their families have made since 9/11 in answering the call of duty. It is only right that their duty and support of the global war on terrorism since September 11 be recognized and included when considering when they should receive retired pay. It is my hope we can keep this provision in conference and included in the final version of the bill.

Also for the Guard and Reserve, I have offered an amendment, cosponsored by my colleague MARK PRYOR from Arkansas, which would provide 180 days of transitional health care for members leaving active duty who agree to affiliate with the Guard and Reserve. An identical provision was sponsored and included in the House bill by my good friend Congressman SANFORD BISHOP from Georgia. This amendment provides a powerful incentive for members leaving active duty to join the Guard and Reserve and could result in several thousand more people entering the Guard and Reserve each and every year.

I ask unanimous consent to have printed in the RECORD a letter of support for this amendment from the Reserve Officers Association.

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

RESERVE OFFICERS ASSOCIATION,
Washington, DC, September 15, 2008.
Hon. SAXBY CHAMBLISS,
Chairman of the Senate Reserve Caucus, Russell
Office Building, Washington, DC.
DEAR SENATOR CHAMBLISS: The Reserve Officers Association, representing 65,000 Re-

serve Component members, supports Amendment 5356 of the Senate Defense Authorization bill, S. 3001, which grants transitional health care to active duty personnel as they become a member of the armed forces reserve component.

It is important to reduce the barriers that prevent people from joining the National Guard or Reserve. Providing transitional TRICARE health coverage permits serving members and their families to continue with the same coverage they received while on active duty, and allow them time to qualify for TRICARE Reserve Select. Your amendment provides a recruiting incentive that helps the individual, his or her family and the armed forces.

Thank you for your efforts on this key issue, and other support to the military that you have shown in the past. Please feel free to have your staff call ROA's legislative director, Marshall Hanson with any question or issue you would like to discuss.

Sincerely,
DENNIS M. MCCARTHY,
Lieutenant General USMC (Retired),
Executive Director.

Mr. CHAMBLISS. Mr. President, another amendment I have offered to the bill, along with my colleague from Georgia, Senator ISAKSON, provides a sense of the Senate on the care of wounded warriors. Last year's Defense Authorization bill contained the Wounded Warrior Act which went a long way to helping DOD and Department of Veterans Affairs establish a network of recovery care coordinators who would work to manage and coordinate care for recovering servicemembers. This is a powerful program and stands to make a huge impact in the lives of our wounded warriors. My amendment calls on DOD and the VA to expedite the recruiting, training, and hiring of these personnel, and also to partner with civilian institutions, such as the Medical College of Georgia School of Nursing, to help train these personnel and ensure they have access to the most up-to-date research and skills in order to best serve our wounded warriors.

Two other amendments I will mention briefly are first a sense of the Senate that the Air Force should conduct a robust demonstration of the SYERS system on the Joint STARS aircraft. SYERS would provide an expanded combat identification capability for Joint STARS and the Air Force should fully explore its utility and the possibility of incorporating SYERS on the entire Joint STARS fleet.

Second, I have offered an amendment that would require DOD to report to Congress on the requirement for Non-dual status National Guard technicians. These personnel are often used to backfill deploying Guard personnel, and due to the large number of deployments, we need to look at expanding the number of Non-dual status technicians as a means of ensuring the Guard's home State missions are not neglected.

The National Defense Authorization Act is designed to strengthen our military, provide the required resources to the Department of Defense to carry out the responsibilities our Nation asks of them, and to improve our servicemembers' and their families' quality of life. The proposed legislation and the funding priorities will ensure that our Nation maintains an adept and quality force to defend our country and allow us to continue to be an ambassador for a prosperous and peaceful world. I commend the chairman, the ranking member, and committee staff for their hard work on the bill and their diligence in bringing it to the floor.

Unfortunately, the bill does have several problematic provisions, including an unnecessary limitation on the role of private security contractors and an unnecessary prohibition on trained and qualified personnel conducting lawful interrogations. I hope we can address and resolve these issues in conference in a way that best serves our military personnel and allows them to effectively carry out their responsibilities.

I also hope the Senate can complete action on this very important piece of legislation and proceed to a House-Senate conference and passage of a conference report prior to the end of this month.

I yield the floor.

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

Mrs. FEINSTEIN. I thank the Chair. (The remarks of Senator FEINSTEIN pertaining to the introduction of S. 3493 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. FEINSTEIN. Mr. President, I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009—Continued

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. I ask unanimous consent to speak as in morning business.

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

THE ECONOMY

Mr. DURBIN. Mr. President, we continue to read today, as we did yesterday, about dramatic changes in the American economy, particularly the problems facing many of our larger financial institutions.

Not that many weeks ago, the Federal Government stepped in when Bear Stearns was in a terrible economic state and took over the responsibility for that company. It was an extraordinary decision because this is a company that we had not regulated as a Federal Government, not one at least in detail. We knew their transactions and balance sheets, but we put the full faith and credit of the American people and our Treasury behind rescuing Bear Stearns.

Then a little over a week ago the decision was made by this administration to do the same for two entities, Government-sponsored entities, Fannie Mae and Freddie Mac. These were the major institutions for housing in America. Between them, some 50 percent of all mortgages were being held. It was understandable that decision was made because the alternative was unthinkable. If Fannie Mae and Freddie Mac should collapse, it would jeopardize not only mortgages and homeowners but also the American economy. It is such a large part, it is understandable that the administration stepped in to make that decision.

Now this week comes a new round. Lehman Brothers, a company in New York which has prospered for many years, now faces bankruptcy, and along with it the question of the future of Merrill Lynch, a major brokerage house which appears to be in line to be acquired by Bank of America.

These are dramatic and unsettling events and a reminder to all of us that the state of the American economy is not as sound and solid as we would like to see it. But those are the events which happened at the highest levels of finance and the highest levels of Wall Street.

All of us representing our constituents—I represent Illinois—have traveled around our States and met with small business men and women, family farmers, and families as well, talking about the situation they face today. They do not make the headlines as Merrill Lynch or Lehman Brothers, but they should because if you go across the board and talk to these working families, these middle-income families,

you will find that over the last 7 or 8 years, this country has not been kind to them. Their spending power has been reduced. They continue to work. They are productive workers. America's economy is a productive economy. And yet they have not been rewarded for their work. Their wages have not kept up with the cost of living. They have fallen behind under this Bush administration some \$2,000 worth of spending power at a minimum. These are the people who are paying \$4.50 per gallon of gasoline trying to figure out how to get back and forth to work and to meet their obligations to their families and friends.

These are folks who are struggling with the cost of groceries and clothing. They are the same ones trying to figure how in the world to put their kids through college so their kids will not end up with student loans that look like their first mortgages.

They are worried also about health care, about the health insurance plans that do not cover as much this year as they did last year. They are worried about the out-of-pocket payments they may have to make. They realize, most of them, they are one diagnosis away from bankruptcy. That is the reality of life in the economy beyond Wall Street.

So when you look across the board at this economy, you realize the fundamental weaknesses of what we face today. Of course, the housing market has been the catalyst for some of the problems we now see. It turned out that the greed of Wall Street, of the overreaching of some companies, led to loans and mortgages which were totally unwise.

Many of those now have resulted in foreclosures, where people are having to leave their homes. Their misfortune is being visited on their neighbors. I recently had an appraisal on my home in Springfield. It is the same home I lived in when I was first elected to Congress many years ago. I have been there a long time. I have to tell you the value of my home has gone down 20 percent.

Why? It is not because we did not keep it up—we do a fairly good job with that—it is because the economy is weak in my hometown of Springfield, IL, and foreclosures nearby have taken their toll on the value of my home. We made all of our mortgage payments, but the value of our home went down 20 percent. That is the reality a lot of people are facing. My story is not one that should bring tears to anybody's eyes; we will get through it. But a lot of folks cannot. They cannot get through this, and that is where we are in the economy today.

How did we reach this point? We reached this point when we adopted a mentality that was dominant in this city for so long that, first, get Government off my back. Government is my enemy. Deregulate.

That was a pretty popular mantra around here 10 or 15 years ago. In fact, a lot of people laughed about it. Even