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Senate

The Senate met at 10 a.m. and was called to order by the Honorable BILL NELSON, a Senator from the State of Florida.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of mystery and clarity, open our eyes to see the unexpected ways You come to us. Reveal to us Your presence in the beauties of nature, in the promises of sacred Scriptures, and in the challenges that deepen our dependence on You.

Manifest Your purposes to our Senators. Make clear Your plans to them and infuse them with confidence in Your power. Inspire them to use their talents as instruments of liberation and healing. Keep them purposeful and expectant so they will experience a deeper friendship with You in the living of their days. We pray in Your abiding Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BILL NELSON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 13, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL NELSON, a Senator from the State of Florida, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, the Senate will be in morning business until 12:30, at which time we will recess for our conference work. All time during this period is equally divided and controlled between the two leaders or their designees.

Members of the Committee on Appropriations will be speaking this morning with respect to the continuing funding resolution. It is my understanding that the chairman of the Committee on Appropriations, Senator BYRD, will be here to speak shortly. The Senate will be in recess from 12:30 to 2:15 today, and when we reconvene at 2:15, we have 15 minutes remaining for debate prior to the 2:30 cloture vote on the continuing funding resolution, H.J. Res. 20. As a reminder, Senators have until 12 noon to file second-degree amendments to the resolution.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

A PRODUCTIVE WEEK

Mr. MCCONNELL. I do not have an opening statement. I indicate to the majority leader that we had a good discussion yesterday about the agenda ahead, not only for the balance of the week but upon our return, and look forward to having a very productive week, including the confirmation of some judges tomorrow or the next day.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein and with the time equally divided between the two leaders or their designees.

Mr. MCCONNELL. I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to each side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. 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.

CONTINUING APPROPRIATIONS

Mr. COBURN. Mr. President, I want to spend a few minutes talking about the importance of what we are doing with this bill and why amendments ought to be allowed in order. I have a very specific amendment I have filed that has to do with health care in this country. Basically, it has to do with the health care of the most vulnerable in this country, babies.

In the early 1980s, an epidemic of an unknown virus started in this country.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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We now know it as HIV/AIDS, and a lot of progress has been made in that fight. During the Reagan Presidency, his AIDS Commission recommended routine testing. That was in 1986. In 2005, the CDC finally recognized the wisdom of that AIDS Commission recommendation, and it is now CDC policy that routine testing from the ages of 17 to 64 be carried out on everybody in this country who encounters health care.

The Ryan White bill, which was recently passed in the 109th Congress, took note of those recommendations. And within the HIV community, there has been debate about the CDC guidelines. But some of that was put to rest on the basis of what we know has been an exemplary program in two States that have all but eliminated HIV transmission to babies.

The policies in many States in this country require extensive counseling before anybody can be tested. What was found by the CDC, and many other organizations, is that a small number of people who are pregnant will actually get tested. New York, led by a courageous Democratic legislator by the name of Nettie Mayersohn, passed a law in 1996. In that year they had 500 babies born with HIV. In the last 2 years, since that law has been passed, they have had less than 7.

Now, what happened? What did they do? What they did was they used commonsense public health, and they said: we test women who are pregnant for lots of diseases antenatally so we can know how to handle them and take care of their infant should they have one of those problems. They applied that same common sense to HIV, and hundreds of babies are born every year in New York who do not get HIV because commonsense public health policies were applied.

It is very simple. If we know your HIV status, and you are positive, 99 percent of the time we can keep your child from getting HIV. There is not hardly any other disease we have in obstetrics—and I am an obstetrician—that is that effective.

What we have done in the bill before us is take away all the money for that, take all the money away the CDC says now is the guideline, their recommendation, the recommendation of the American Medical Association, the American College of Obstetricians and Gynecologists. Why are we doing that? There is a claim it was an earmark. I will not spend the time to bore everybody with the definition of an ''earmark.'' This came as part of the Enzi-Kennedy Ryan White bill because it is good public health policy and it applies as an incentive to every State out there to start doing something that will make a difference in someone's life.

The Centers for Disease Control and Prevention recommends that HIV be a routine testing procedure. Washington, DC, has a wonderful Director of their AIDS Commission, Marsha Martin. Last June they started routine testing in this city. This city has 3.5 percent, it would seem, of its population infected with HIV—about three and half to four times the rest of the Nation. They have identified almost 1,600 HIV patients.

Now, why is that important? The reason that is important is because 70 percent of the infections that are now occurring in HIV are occurring in people who do not know they are infected. And if they do not know they are infected, they will transmit the disease without knowing they are transmitting it.

Before the Nettie Mayersohn law in New York State, only 62 percent of the women who were pregnant knew their HIV status. After that, we are at almost 96 percent. The difference is 500 babies a year born with HIV versus 7—a very significant difference.

What does that mean in terms of the children? It means a life not having a disease, not being stuck, not being given medicine, and having a life expectancy of less than 25 years of age. That is what that means.

So with that leadership in the State of New York, what has been accomplished is 99 percent of the prenatal transmission of HIV has been prevented. It also means those pregnant women who are HIV positive are now being treated at a much earlier stage in their disease, which gives them far greater—probably the same life expectancy as you or I because of the tremendous advances in medicine. What we do know is the later the diagnosis, the shorter their life expectancy and the higher the cost.

Now, let me walk you through, for a minute, what others say about this. CDC also recommends prenatal testing and treatment of newborns. Here is what they have said:

> Considering the potential for preventing transmission, no child in this country should be born whose HIV status or whose mother's status is unknown.

It costs $10 to test, it costs $75 to treat, to prevent 99 percent of them. It makes a major difference in thousands of children's lives every year. It makes a major difference in thousands and thousands of women's lives every year to have this diagnosis.

What happens if we do not do it, if we do not encourage it? And this part of the Ryan White Act was meant to incentivize States to move to the CDC recommendation. It costs $10,000 a year to treat a newborn who is infected with HIV.

One of the problems with this tremendous epidemic that we face is it narrows in on a group of people, a large percentage of whom happen to be African-American women. They account for two-thirds of the infection in women yet are 13 percent of our population. How dare us take this away.

Multiple organizations have supported this policy. The Early Diagnosis Grant Program was established by the Ryan White HIV/AIDS Treatment Modernization Act. It provides $30 million for grants that will be utilized for States that become eligible to do the testing and the treatment for both mothers and their infants.

To be eligible for the funds, they have to offer a voluntary opt-out HIV testing program for pregnant women. They have to commit to universal HIV testing of newborns when the HIV status of their mother is unknown. They have to offer voluntary opt-out HIV testing of clients at sexually transmitted disease clinics. And they have to offer voluntary opt-out HIV testing of clients at substance abuse treatment centers, where we know most of the disease tends to be seen.

This is current CDC policy—the people whom we trust to tell us what to do. Funding for this grant is provided out of existing HIV moneys at CDC, prevention funds that are already there, which they know will have tremendous positive effects.

Now, think about it: 500 infants at $10,000 a year, every year. Multiply it, multiply it, multiply it, and it only takes 4½ years to spend $30 million if we do not do this. These funds are targeted for those most at risk of infection, as well as those most likely to benefit from treatment.

President Bush, in his budget, asked for this money to be directed as well. So this is not something that does not have broad support, both in the health community, with the President, and many of those most active in the HIV community.

The point we should not forget is baby AIDS can be virtually eliminated if expectant mothers with HIV are identified and treated for HIV during their pregnancy. When treatment is provided during pregnancy, labor, and delivery, and to infants after birth, the risk of transmission goes down to less than 1 percent. Without treatment, 25 percent of the infants will become HIV infected.

But how do we treat? We cannot treat unless we know they have it. We cannot know they have it unless they are tested. We cannot test unless we have the incentives to test. So this creates the incentive programs for States to copy what both New York and Connecticut did. Connecticut has not had an HIV-infected baby since 2001.

They have eliminated it in Connecticut. Why should we not do the same thing? Why should we disallow an amendment to restore this funding that goes to the heart of those most vulnerable in our country? It also goes to help those who are most disaffected, those who are on the poorer spectrum, those who have less opportunity because that is where we see more infection.

For the 1 percent who would not be cured, what we know is, we are treating early. We are not waiting until they get the disease in a full-blown state. What we know is, your likelihood of dying, if you are diagnosed when your CD 4 count is below 50, exponentially goes up. So early diagnosis with HIV is of paramount importance.

It also needs to be said that one out of every four people in this country who have HIV don't know it. They have no knowledge that they have it. That one out of four accounts for 70 percent of the new infections in this country. So the CDC policy of frequent testing, opt-out testing, more testing is a policy that makes absolute sense from a public health perspective.

Because only a few States have similar laws to Connecticut and New York, hundreds of babies will still become infected this year. To take this money out, to say none of the money can be spent for this program, condemns hundreds of newborn babies to a life of HIV infection and AIDS. That is what this bill does. It condemns hundreds of babies in this country to a life with HIV. It is a preventable disease. Why would we do that? Why would we come anywhere close to that?

I mentioned Marsha Martin. Since last year, they started a policy of routine frequent testing, and 16,000 individuals in Washington, DC, have been tested. Five hundred eighty people who would not have otherwise been tested have been diagnosed with HIV at a stage at which we can save their life. Some of those were pregnant women. People say: You don't need to do this. Why is it important for every woman to know whether she is HIV positive or negative if she gives birth to a baby? Because only 25 percent of the time does this virus get transmitted to the baby at birth. But what they don't think about is, if they breast-feed the baby, they will transmit the virus as well. So your baby may not be infected at birth, but if you breast-feed your baby and you are carrying HIV, it is a death sentence for the baby. So to not know your status puts your baby at risk, even though it was not infected at birth.

Here is what happened in Connecticut. They went from 28 percent of the women who knew their HIV status before they passed the law to 90 percent of the women. What does that translate into? That translates into saving lives, not just the women who were HIV positive who found out and had early treatment but their children as well. Why would we not want to incentivize the rest of the States to do what has been successful in New York and Connecticut and several other States?

The health commissioner of New York is pushing to change State law to make testing more convenient for patients and health care providers:

> We are aggressively offering testing to patients who come to us for routine physicals, heart disease, a sprained ankle. We are lessening the stigma sometimes associated with HIV and helping connect many more HIV-positive individuals with early treatment.

Here is the other difference I would hope the esteemed Members of the Senate would recognize. By doing early testing, the cost to treat is $10,000 a year. By doing late testing, the cost to treat is $40,000 a year, with much more in terms of complications. Again, to test costs $10, to treat a newborn is $75, versus $10,000 a year at a minimum.

Women, children, and African Americans will be most affected by the termination of this program. Since the beginning of the HIV epidemic, African Americans have accounted for almost 400,000 of the estimated 1 million AIDS diagnoses in our country. According to the 2000 census, African Americans made up 13 percent of our population. However, in 2005, 49 percent of the estimated 40,000 new cases were African American. It is 24 times the rate in African-American women than it is in white women. Why would we not want to intercede with testing to save their lives?

Between 120 and 160,000 women in the United States are infected with HIV. In 2001, the National Congress of Black Women issued a report entitled ''African American Women and the HIV/AIDS Initiative,'' that outlined that group's strategy to combat HIV/AIDS among black women. Among their recommendations: Every State should be required to screen all pregnant women for HIV and test all newborns for the virus and Congress should appropriate funds for such initiatives. Every year that passes results in hundreds of more cases of baby AIDS that could have been prevented.

Who supports doing this perinatal testing and treatment? The American Medical Association, the U.S. Preventative Services Task Force, the AIDS Health Care Foundation, the Children's AIDS Fund, multiple medical groups, and, yes, the Centers for Disease Control and Prevention, the one agency we fund to tell us what we should do. It is their policy. We are denying their policy. We are denying infants the right to live without HIV.

Here is what they said:

> Based on information presented in the MMWR, the available data indicate that both ''opt-out'' prenatal maternal screening and mandatory newborn screening achieve higher maternal screening rates than ''opt-in'' prenatal screening.

The status quo.

> Accordingly, CDC recommends that clinicians routinely screen all women for HIV infection, using an ''opt-out'' approach and that jurisdictions with statutory barriers to such prenatal screening consider revising them. In addition, CDC encourages clinicians to test for HIV any newborn whose mother's HIV status is unknown . . . CDC recommends rapid testing of the infant immediately postpartum so that antiretroviral prophylactics can be offered to HIV-exposed infants.

Ninety-nine percent, we can prevent. We have taken out the capability for other States what New York and Connecticut have done, and we are refusing to allow the replacement of that to save the weakest and most vulnerable in our country.

What are the claims we have heard? Here is the first claim: Even without funding for this particular HIV testing grant program, Federal funds will still be available for HIV testing. What is true is that other Federal funds can provide HIV testing. As written, section 20613(b)(1) of this bill specifies that none of the funds appropriated for 2007 can be used for any early diagnosis grants. This would specifically forbid Federal funding for HIV testing of pregnant women in any area—newborns, patients receiving treatment for substance abuse, and those accessing services at STD clinics. These populations include those most at risk for HIV, as well as those who can most benefit from early treatment and intervention. It is counterintuitive that this would be a part of this bill.

What are the activities that are supported by this $30 million that are going to be prohibited, including HIV AIDS testing, including rapid testing? It only costs $10. It precludes prevention counseling. It excludes treatment of newborns exposed to HIV. It excludes treatment of mothers infected with HIV or AIDS and the costs associated with linking the diagnosis of AIDS to care and treatment for that disease. The $30 million instead will revert to other CDC HIV/AIDS program activities which in recent years have included the following: Beachside conferences, flirting classes, erotic writing seminars, zoo trips, and other dubious initiatives that do not have any lifesaving impact or near lifesaving impact as early diagnosis and treatment.

This $30 million is either going to be spent effectively or it is going to be wasted. President Reagan's AIDS Commission was right. They said it in 1986. The CDC caught up last year in 2005 to the policies that were recommended to this Congress in 1985–1986.

Few, if any, States would benefit from the funding provided by this program. The point of this program is to encourage States to update their policies to reflect CDC's recommendations for HIV testing and baby AIDS treatment. That is the whole purpose. That is part of the whole Ryan White grant. It is to improve our approach to HIV, to eliminate newborn infections, and to eliminate transmission from those who don't know. While few States would immediately qualify for early diagnosis grants, the availability of the funds was intended to get them to move to the point where they would take advantage of that, which means they would be saving hundreds of babies' lives every year and protecting the lives of the mothers who were there to nurture them. It makes no sense that we would prohibit money for this process.

Many States, including Illinois, are already moving in this direction. States such as New York and Connecticut have had the policies in place for over a decade. And the proof is there.

What is the other claim? This bill defunds all earmarks. The Early Diagnosis Grant Program is an earmark and, therefore, has not been singled out but has been removed, along with other special funding projects.

Fact: The Early Diagnosis Grant Program is not an earmark. All States

with routine testing policies are eligible for the funding provided by this grant. Those which are not currently eligible can become eligible by passing the law or implementing State regulations to meet funding eligibility.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. COBURN. I am happy to yield to the senior Senator from West Virginia.

Mr. BYRD. May I inquire as to how much longer the distinguished Senator will be speaking?

Mr. COBURN. About 10 minutes.

Mr. BYRD. I thank the Senator. If the Senator will yield further momentarily, I ask the Chair, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. We are in morning business. The minority has 41 minutes; the majority has 66 minutes.

Mr. BYRD. I thank the Chair and the distinguished Senator for yielding.

Mr. COBURN. This program doesn't match the definition or criteria of an earmark approved by the Senate in January or used by the Congressional Research Service. On January 16, 2007, the Senate approved an amendment by a vote of 98 to zero, defining the term ''earmark'' as a provision or report language included primarily at the request of a Member, delegate, resident commissioner, or Senator, providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority or spending authority for a contract loan, loan guarantee, loan authority or other expenditure with or to an entity or targeted to a specific State, a specific locality or a specific congressional district, other than through a statutory or administrative formally driven competitive war process.

This doesn't come anywhere close to that definition. It doesn't meet any of criteria that the Senate has defined as earmark. It is not directed to any specific State, any entity, any location, and does not bypass the statutory award process.

CRS defines an earmark as funds set aside with an account for specific organization or location, either in the appropriations act or the joint explanatory statement of the conference committee. CRS notes that such designations generally bypass the usual competitive distribution of awards by a Federal agency. This doesn't meet any of that. It is hogwash to call this an earmark, and everybody knows it. Everybody knows it.

Claim: This program would violate the privacy rights of women by requiring mandatory HIV testing.

This doesn't require mandatory HIV testing. It offers women to have testing and they can say, ''I don't want to be tested,'' rather than for them to have to ask to be tested.

Current laws mandating extensive pre- and post-test counseling make HIV testing the most overregulated diagnostic and thereby discourage health providers from offering patients screening for HIV.

Testing newborns for HIV is too little too late. That is the other point I have heard. The science doesn't support that at all. If the baby has HIV antibiotics, 99 percent of the time we can prevent them from becoming infected. Of those who do, the 1 percent who do become infected, we can treat so much better by knowing it at an early stage. We can extend their life for years at less than $40,000 a year, at $10,000 a year. By not knowing and waiting until their CD4 counts come down precipitously low, we go from $10,000 a year in treatment to $40,000 a year in treatment.

I will finish with a couple of comments.

In the early eighties, I delivered a little girl. Her name was Megan. Two years later, her mother re-presented to me with full-blown AIDS. The mother died 3 weeks later. Megan lived an additional 8 years.

Had we done this and had we known to have done this, Megan would be alive and flourishing. Her mother would be alive with HIV. Megan would have never gotten HIV.

I will never have that little girl's face removed from my memory. We, by this bill and not allowing the reestablishment, are creating thousands of Megans in this country—thousands, thousands. If this body wants that on their shoulders, continue what we are doing today. But if we claim to be here to help the helpless, to put in place policies that, No. 1, the best of the science tells us are the right policies, and No. 2, makes a massive difference in individual lives, then make in order this amendment to restore this money. By not doing so, you walk out of here condemning hundreds of infants, thousands of infants to death, at worst, and a life on medicines for the rest of their life.

You also condemn a large group of African-American women to the lack of knowledge and the lack of effective drugs that can give them a normal life. You can decide. The power is on the majority side. They get to decide this issue. But you dare not come back into this Chamber saying that you care for children, that you care for minorities, and at the same time have gutted one of the programs that will give hope to those same groups of people. You can't have it both ways. You can't single out good medicine, good public health care, and true compassion for those most at risk, and then come back and claim you care.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, for how long am I recognized?

The ACTING PRESIDENT pro tempore. The Senator has under morning business up to 65 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, today marks the 136th day of the fiscal year. The fiscal year is over one-third complete. We will be debating House Joint Resolution 20, a joint funding resolution for the nine remaining appropriations bills that were not completed during the 109th Congress. The Republican leadership during the 109th Congress left us with a great deal of unfinished appropriations business. Only 2 of the 11 appropriations bills were enacted into law; 13 of the 15 Federal Departments are struggling to cope with a very restrictive continuing resolution which expires at midnight this coming Thursday.

As I noted last week, this was not the fault of the Appropriations Committee. Under the able leadership of Chairman THAD COCHRAN, all of the fiscal year 2007 appropriations bills were reported from the committee by July 20. All—a-l-l—all of the bills were bipartisan bills approved by unanimous votes. Unfortunately, the Republican leadership of the 109th Congress chose not to bring domestic appropriations bills to the floor before the election and then chose not to finish those bills after the election. Instead, Congress passed a series of restrictive continuing resolutions.

If Congress were to simply extend the existing continuing resolutions, we would leave huge problems for veterans and military medical care, for education programs, law enforcement programs, funding for global AIDS, funding for energy independence, and funding for agencies that provide key services to the elderly, such as the Social Security Administration and the 1–800–Medicare call center.

In December, the new House of Representatives appropriations chairman, DAVID OBEY, and I plotted a bipartisan and bicameral course for dealing with this problem. Based on that plan, there were intense negotiations—intense negotiations—in January which included the majority and the minority in the House and the Senate.

I, as chairman of the Senate Appropriations Committee, consulted with several Senators, and especially with Senator THAD COCHRAN, several times during that process, and his ranking members and their staffs were included throughout the process.

The resolution that is now before the Senate is the product of these efforts. The resolution, which totals $463.5 billion, meets several goals. Let me repeat the figure: $463.5 billion. That would be $463.50 for every minute that has passed since our Lord, Jesus Christ, was born.

Get this. These are the goals: First, funding stays within the $873.8 billion statutory cap on spending, the cap which was set during the 109th Congress and which equals the President's request.

Second, the legislation does not—does not—include earmarks. We eliminated over 9,300 earmarks. Hopefully, the ethics reform bill will establish greater transparency and accountability in the earmarking process. Once the ethics reform bill is in place, we will establish a more open, disciplined,

and accountable process for congressional directives in the fiscal year 2008 bill.

Third, there is no—there is no—emergency spending in this resolution.

Finally—finally—essential national priorities receive a boost in the legislation. To help pay for these priorities, we cut over $11 billion from 125 different accounts and we froze spending at the 2006 level for 450 accounts. These national priorities have broad bipartisan support, as noted in the White House Statement of Administration Policy. Many of these increases reflect administration priorities.

For veterans care, we include $32.3 billion, an increase of $3.6 billion over the fiscal year 2006 level. For defense health initiatives, we include $21.2 billion, an increase of $1.4 billion over fiscal year 2006. To provide care for military members and their families, including treating servicemembers wounded in action in Iraq and Afghanistan, for the Labor, HHS, and Education bill, funding is increased by $2.3 billion.

Title I grants for our schools are funded at $12.8 billion, an increase of $125 million over fiscal year 2006, which will provide approximately 38,000 additional low-income children with intensive reading and math instruction. The legislation also funds the title I school improvement fund at $125 million to target assistance to the 6,700 schools that failed to meet No Child Left Behind requirements in the 2005–2006 school year. For the first time in 4 years, we will have an increase in the maximum Pell higher education grant from $260 to $431.

The National Institutes of Health are funded at $28.9 billion, an increase of $620 million over fiscal year 2006.

Three hundred million dollars is included for the Federal Mine Safety and Health Administration. Let me say that again. Three hundred million dollars is included for the Federal Mine Safety and Health Administration, an increase of $23 million over fiscal year 2006, to allow the agency to continue its national efforts to hire and train new mine safety inspectors for safety in the Nation's 2,000 coal mines.

The legislation increases funding for Federal, State, and local law enforcement by $1.6 billion. According to the FBI, last year violent crime rose—went up—in America for the first time in 15 years.

Under the continuing resolution now in law, highway funding is frozen—frozen—at the 2006 level. Under this joint funding resolution, the Federal-Aid Highway Program is fully funded at the level guaranteed in the highway law.

The joint resolution includes $4.8 billion for global AIDS and malaria programs, an increase of $1.4 billion over fiscal year 2006.

Last week there was debate concerning the level of funding for the 2005 base closure and realignment program. The resolution that is before the Senate provides $2.5 billion for the base closure and realignment 2005 program. This level is $1 billion—I say again—this level is $1 billion higher than the level available in the current continuing resolution the President signed on December 9. However, this level is $3.1 billion below the level requested by the President. I assure all Senators that the Appropriations Committee, of which I have the honor of being chairman, intends to address the $3.1 billion increase when the Senate takes up the $100 billion supplemental the President sent to the Congress last week. Last week. I have every expectation that the supplemental will be before the Senate next month. This being February, I have every expectation that the supplemental will be before the Senate next month.

Now, let me take a moment to review how we came to be where we are on funding the base closure account. Last year, under the very able and competent leadership of Chairman THAD COCHRAN, Senator HUTCHISON, and Senator FEINSTEIN, the Senate Appropriations Committee reported out the Military Construction bill on July 20, which was over 6 months ago, and the bill included $5.2 billion for the base closure account. Unfortunately—I say unfortunately—that bill was never sent to the President. The President triggered the problem when he vowed to veto the fiscal year 2007 Defense bill unless the Senate added $5 billion—$5 billion; that is $5 for every minute since Jesus Christ was born—$5 billion to the Senate version of the Defense bill. This is the same $5 billion the Senate Appropriations Committee had put toward addressing needs, such as funding the base closure account and funding veterans medical care.

The Republican leadership of the 109th Congress followed the President's lead, appropriated the $5 billion to the Defense bill, and did not send to the President the Military Construction-Veterans bill or eight of the other appropriations bills. Funding for BRAC was among the many victims of that decision. Thus, and therefore, it was left to the 110th Congress to solve the budgetary mess left by that decision.

While the extra $1 billion added to BRAC in this resolution does not bring the program up to the level of the President's budget request, it is sufficient—it is sufficient—to address one of the Defense Department's most urgent BRAC priorities; namely, the construction of facilities needed to bring U.S. troops back from Europe. The remaining $3.1 billion for the base closure effort can and will be addressed through the supplemental next month.

This is not a perfect resolution, but it is a thoughtful resolution. By complying with the statutory cap on spending, it is a fiscally disciplined resolution. By eliminating earmarks, it provides Congress with time to pass ethics reform legislation to increase transparency and accountability. By targeting resources toward national priorities, such as veterans and military medical care, we—the pronoun ''we''—solve the most distressing of the problems created by the existing continuing resolution.

Now, looking ahead to the fiscal year 2008 bill, I am committed to working with my friend and colleague, Senator THAD COCHRAN, the ranking member from Mississippi, to bring—hear me—to bring 12 individual bipartisan and fiscally responsible fiscal year 2008 appropriation bills to the floor. When? When? This year.

However, on this, the 136th day of fiscal year 2007, adoption of House Joint Resolution 20 will ensure that we answer some of our Nation's most pressing needs and avoid an unnecessary Government shutdown. It is time to act. I urge swift—not Tom Swift, but swift adoption of the resolution.

I yield the floor. I suggest the absence of a quorum and I ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

Mr. SMITH. Mr. President, I ask unanimous consent that morning business be dispensed with, that the Senate resume consideration of H.J. Res. 20, the continuing resolution.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Pennsylvania, I object.

Mr. SMITH. Mr. President, I came to the Senate yesterday to spend several hours speaking to the Senate to describe the loss of a program critical to rural counties in my State. The Secure Rural School and Community Self-Determination Act of 2000 benefits more than Oregon. In fact, there are 38 other States and 700 counties nationwide that are affected. The safety net program it embodies protected 8.5 million schoolchildren, 557,000 teachers, and 18,000 schools from Washington State to California to Mississippi and West Virginia. That safety net was removed through expiration last September.

Last week, I filed an amendment to the continuing resolution that would have extended the Secure Rural School and Community Self-Determination Act by 1 year. This time is needed to keep these 700 counties whole while Congress writes and enacts a longer term program.

Yesterday, I was allowed to speak but not as long as I had hoped to speak. In fairness to other colleagues and at the request of the majority leader, I ended up only taking up a couple of hours. I thought it was necessary yesterday and, still, to describe fairly the severe impacts the expiration of the

Secure Rural School Fund will have upon my State and upon many others. Likewise, the amendment tree has been filled to prevent the Senate from considering amendments such as mine.

The CR is critical to my State and others to have this amendment on it simply because of the operation of time. There is one other vehicle coming up—the emergency supplemental—that could also serve to mitigate the damage which is being done. But that bill is not expected to pass until sometime in April. Between now and then, thousands of public employees will be laid off. Public libraries will be closed, public services curtailed, public safety put in jeopardy.

While this bill will keep the Federal Government afloat, the most basic elements of our extended democracy in places such as Oregon will be in peril. That is not fair. It is not something I will condone or bless with my vote on this bill.

I will continue to come to the Senate and speak to this, even after cloture is invoked, to try to appeal to my colleagues that this continuing resolution, which is the continued work product of the 109th Congress, should include this indispensable provision, this funding, that is so vital to the most basic services which Government is called upon to provide.

Some may wonder why we are at this juncture, why it has taken so long, where there has been no action. As a former Member of the majority, I cannot begin to count the numbers of meetings I attended, pleading the case of my State, asking for consideration and being met with warm words but no commitments. My colleague now, Senator WYDEN, is undertaking nobly to do the same thing as a Member of the current majority. Together, we are both committed to doing everything that is possible, that this business not be left undone because it is so critical to the State of Oregon and others.

It affects Oregon disproportionately because the formula for the Secure Rural School and Community Self-Determination Act was based on historic timber levels. Many Americans do not realize that Oregon is over half owned by the Federal Government. The Federal Government created the western expansion in large measure because of the Railroad Act, incentivizing people to go and settle. California had the gold, but Oregon had the green gold in the form of timber, logs, raw material for building homes and structures throughout America and, frankly, throughout the world.

The relationship that was developed between Oregon and the Federal Government was based upon timber. Because local and State governments are constitutionally prohibited from taxing the Federal Government, the Federal Government realized, as the greatest landowner, it had to provide some opportunity for local communities to have things such as schools, paved roads, police officers, and the like, the things which are normally in the general funds of counties. What it did, when the Federal Government would put up timber for sale, it would do it on a bid basis; 75 percent of the money received from bidding Federal timber would come to Washington, DC; 25 percent would go to the local communities. This was in lieu of property taxes because they had no other recourse to tax the Federal Government. This went on for well over 100 years and it worked wonderfully.

But the ethic in the United States has changed as it relates to the harvesting of trees and the extraction of natural resources. The spotted owl was held up as an emblem that its survival was imperiled by the harvesting of trees. After 15 years of the Endangered Species Act listing of the spotted owl, it has now become clear the threat to the spotted owl was not logging; it was, in fact, the barred owl, which is not native to Oregon but which eats the spotted owl. In addition to that because timber harvest was ended on public lands, we now suffer extraordinary nonhistoriclike wildfires that consume millions of acres, destroying spotted owl habitat.

But in all of this, through the decade of the 1990s, President Clinton generously recognized the forest policies he had implemented were doing great harm to rural communities, to timber-dependent towns, so we established the Secure Rural School and Community Self-Determination Act. In establishing that, it made up the difference, a bandaid, if you will, until we could write Federal timber policy in a way that would allow for these communities to survive in the interim.

President Bush was elected to office. He has tried mightily, through the Healthy Forest Initiative, through supporting and, for the first time, funding the Northwest Forest Act, to try to free up timber so the funds are not necessary. But despite his best efforts, the courts and the laws of Congress have prevented that from occurring.

So with the expiration of this act, we desperately need its continuance, its reenactment, as we continue to work to rebalance the environmental and economic equation.

The irony is we are losing spotted owls through natural predation and through catastrophic wildfire. And all of the 30,000 jobs lost in my State—family wage jobs—those have not been replaced and Americans still need timber.

So where do we get our timber? We get it from Canada. Canada has spotted owls as well. But what Canada does to fill the void America created for American consumers is to overcut its lands without near the environmental protections we have on our own forest lands. As a result of that, the question ought to be asked: Does the spotted owl know the difference between the border of the United States and the Canadian border? I believe the answer is no.

As science and evidence is proving more all the time, the peril to the spotted owl is not humankind, it is its own kind, the barred owl, and then, of course, catastrophic wildfire.

Congress needs to live up to this. This is an obligation that comes when the Federal Government, as the biggest land owner, has said you can't cut trees. But when it says you can't cut trees, that comes with a cost. It is a cost with a price, and it is a price which the Federal Treasury owes as a matter of a moral obligation.

The time to act is now. Yes, we can wait for the emergency supplemental, but if we do, much of the damage will already have begun to take place. It is not necessary that we wait. It is necessary that we act now. That is my appeal. That is my message. That will continue to be the reason why I come to the Senate to inform my colleagues of this problem and of this moral obligation. If we can't have the resources in terms of dollars, then allow Oregonians to restore its timber industry so it can produce jobs, produce timber, produce the tax base so these communities can live. It is basic fairness.

The time to show it is now on the continuing resolution, at this time and today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SMITH. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the quorum call be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I am out here again today to urge the Senate to pass the bipartisan joint funding resolution that is before us. It is H.J. Res. 20. As I mentioned yesterday evening when I was out here on the Senate floor, President Bush's Transportation Secretary, Mary Peters, testified before us last week that we will see ''drastic consequences'' if we fail to pass this funding resolution that is now in front of us. We are going to see painful cuts to aviation safety, highway safety, and highway construction. I also can tell my colleagues we will see painful and unnecessary cuts in housing, law enforcement, and veterans health care.

I want to make sure every Senator understands the importance of the vote

we are going to have and understands the difference between the continuing resolution that our Government is currently running on and the joint funding resolution, H.J. Res. 20, that we are currently debating.

If we fail to pass H.J. Res. 20, the bill before us, and, instead, extend the current continuing resolution for the rest of this year, we are going to see families across this country lose their housing. We are going to see airline safety inspectors who are furloughed. We are going to see air traffic controllers who will be furloughed, highway construction will be cut, and, as a result, some States are going to have to wait until the next construction season to deal with very critical safety and congestion problems.

In short, failing to pass H.J. Res. 20, the issue before us, we are going to hurt our communities severely. That is why it is so important we pass this resolution, which is a bipartisan bill, that has been very carefully crafted to address the most critical funding shortfalls across our entire Government. We have to pass H.J. Res. 20, and we need to do it this week, by this Thursday.

Communities across our country need more help in fighting crime, and that is one reason we have to pass this joint funding resolution. Without this resolution, without this bill, our State and local law enforcement will be cut by $1.2 billion. The joint funding resolution we have before us will prevent that drastic cut, and our resolution adds money for Byrne grants and COPS grants, providing a $176 million increase over last year for those two programs. That money will go straight to our local communities to help them fight crime.

When I go home and sit down with our law enforcement officials in my home State of Washington, they tell me they need more help from all of us in the Federal Government.

A few months ago, I was out in Yakima, WA, listening to our local law enforcement officials talk about their tremendous efforts to fight meth and gangs. They told me that Byrne grants are absolutely critical to their efforts.

There is a huge difference for Byrne grant funding under a continuing resolution—that we would be under if we do not pass this joint funding resolution—and the joint funding resolution. Under the joint funding resolution, the Byrne Grant Assistance Program is funded at $519 million. That is an increase of $108.7 million over fiscal year 2006. Under our bill, the COPS Program is funded at $541.7 million. That is an increase of $67.9 million over fiscal year 2006.

Those programs are exactly the type of support that our local law enforcement officials need. But they will only get that—they will only get that—if we pass the joint funding resolution that is now before the Senate.

Our resolution also supports national efforts to fight crime. Under a continuing resolution, the FBI would have to lay off 4,000 special agents. Let me repeat that for my colleagues. If we go under a continuing resolution and fail to pass the funding resolution that is before us, the FBI will have to lay off 4,000 special agents.

Now, at a time when violent crime is rising, when robberies are up nearly 10 percent nationwide, when the FBI is working very hard to fight crime, do we really want to lay off 4,000 FBI agents? Of course not. That is why the resolution provides the FBI with an additional $216 million over fiscal year 2006. That means the FBI will not have to lay off those special agents if we pass this funding resolution. If we do not pass H.J. Res. 20, those FBI agents will be furloughed, sitting at home, unpaid, rather than out working to fight crime.

Also the Justice Department's Violence Against Women office is funded at $382.5 million in our resolution. That is nearly $1 million over their funding of fiscal year 2006, critical dollars for a very important initiative to fight violence against women.

The joint funding resolution will also help us to cut off funding to terrorists. The Treasury Department today is working very hard to block the flow of money to terrorists. Last year, Treasury hired new intelligence analysts in that effort. Under a CR, those new analysts would be furloughed. Talk about a step backwards in the fight against terror. Our joint funding resolution, however, ensures that those analysts will stay on the job and keep disrupting terror financing.

In short, we have to pass H. J. Res. 20 so we prevent cuts in local law enforcement, so we prevent the layoffs of thousands of FBI agents, and we keep our Federal law enforcement efforts on track. This vote coming up is very critical. Either you vote to support funding law enforcement at an appropriate level or you are voting to cut funding to your local law enforcement community. That is the choice every Senator will have to make.

America's veterans also have a great deal at stake when the Senate votes on this joint funding resolution. I just came from a hearing with VA Secretary Nicholson this morning. It is absolutely clear to me that we are not doing enough yet to meet the needs of those who have served our country so honorably. Veterans today are facing long lines for health care. Veterans who need mental health care are being told they have to wait to see a doctor. The VA is not prepared for the many veterans who are coming home with serious physical challenges. We need a VA budget for the current year that meets their needs. If we pass a continuing resolution, veterans are going to get less funding and, with it, fewer medical services, less funding for medical facilities, and more delays in getting the benefits they have earned. We owe our veterans more than cuts and delays. Under the joint funding resolution, total funding for VA medical care is $32 billion. That is an increase of about $3.5 billion over the fiscal year 2006 appropriated level.

Let me talk about one other VA account in particular. Under the joint funding resolution we have before us, VA medical services are funded at about $25 billion. That is an increase of $2.965 billion over the fiscal year 2006 appropriated level. That money is going to help our veterans with medical care, including inpatient and outpatient care, mental health care, and long-term care. Under our bill, there is an extra $70 million for the VA's general operating expenses, and some of that money is going to help our Veterans Benefits Administration deal with the massive backlog of benefit claims. The VA has told us they wanted to hire a net of 300 more employees so we can cut down this waiting time all of us are hearing about from our veterans when we go home who can't get the benefits they need. Without the joint funding resolution, the VA will not be able to hire those new employees, and veterans are going to continue to tell us they face long delays for the benefits they have earned and deserve.

I also want to talk about the effect that not passing the joint funding resolution would have on critical programs under my own jurisdiction in the Transportation, Housing, and Urban Development Subcommittee. If we do not pass the joint funding bill, our air traffic controllers are going to be furloughed. Our air safety inspectors will be furloughed. If we fail to pass this bipartisan bill, we are going to see a decline in our ability to provide railroad inspections, pipeline safety inspections, and to make sure we get truck safety inspections across the country. Simply put, if we don't pass this bipartisan bill, the safety of the people we represent is going to be put in danger.

We are also going to feel the consequences in the critical area of housing. If we don't pass this funding resolution, hundreds of thousands of Americans are going to face a housing crisis. In fact, 157,000 low-income people could lose their housing; 70,000 people could lose their housing vouchers; and 11,500 housing units that are housing the homeless could be lost.

Those are only some of the consequences Americans will face if this Congress fails to act in the next 2 days to pass this joint funding resolution. Don't take my word for it. Last Thursday I held a hearing with President Bush's very able Secretary of Transportation Mary Peters. At that hearing, she talked in very clear terms about the consequences of not passing this joint funding resolution. I asked Secretary Peters what it would mean for safety and hiring if we did not pass this joint funding resolution. She said to me:

> [W]e will see a serious decline in the number of safety inspectors: truck safety inspectors, rail safety inspectors, aviation inspectors across the broad range in our program.

That is directly from the Transportation Secretary.

Does any Senator want to be responsible for voting for a serious decline in the number of truck safety inspectors, rail safety inspectors, aviation safety inspectors? How would you ever explain that to your constituents, that you voted to undermine their safety as they travel by car or train or plane?

We also need to pass this joint funding resolution because without it, our States will not be able to address their most pressing highway, bridge, and road problems. In fact, Secretary Peters, President Bush's Transportation Secretary, warned us last week that some States could miss an entire construction season if we do not pass this bill this week. She said:

It is especially important to those States who have a construction season that will be upon us very, very shortly, and if they are not able to know that this funding is coming and be able to let contracts accordingly we could easily miss an entire construction season.

All of us better recognize that our constituents are going to feel the impact of this vote on their roads and bridges and highways if we do not pass the joint funding resolution. The bill before the Senate provides an additional $3.75 billion in formula funding for our Nation's highway and transit systems. That funding will serve to create almost 160,000 new jobs, and it will help us alleviate congestion, an issue many of us face in our States. It is going to be an important infusion of cash for the States to address their needs.

I ask unanimous consent that a table that has been provided to me by the Federal Highway Administration which displays the highway funding increases that will be seen by each of our States be printed in the RECORD.

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

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION—COMPARISON OF ACTUAL FY 2006 OBLIGATION LIMITATION AND ESTIMATED FY 2007 OBLIGATION LIMITATION INCLUDING REVENUE ALIGNED BUDGET AUTHORITY

[Including takedowns for NHTSA Operations and Research]

State	Actual FY 2006 obligation limitation	Estimated FY 2007	Delta
Alabama	$535,056,170	$600,869,788	$65,813,618
Alaska	228,288,252	270,731,918	42,443,666
Arizona	499,506,758	593,277,405	93,770,647
Arkansas	330,837,555	381,949,909	51,112,354
California	2,381,267,388	2,680,526,468	299,259,080
Colorado	338,198,419	400,663,892	62,465,473
Connecticut	376,937,736	402,325,874	25,388,138
Delaware	104,178,113	121,131,724	16,953,611
District of Columbia	112,407,878	123,804,359	11,396,481
Florida	1,289,559,918	1,544,927,499	255,367,581
Georgia	940,654,903	1,067,010,791	126,355,888
Hawaii	120,644,520	127,596,268	6,951,748
Idaho	197,536,278	222,829,360	25,293,082
Illinois	898,006,320	1,010,811,302	112,804,982
Indiana	661,150,145	775,353,318	114,203,173
Iowa	288,499,793	330,589,700	42,089,907
Kansas	292,376,091	309,772,956	17,396,865
Kentucky	460,544,276	520,949,132	60,404,856
Louisiana	404,683,450	474,862,364	70,178,914
Maine	128,192,073	136,355,671	8,163,598
Maryland	418,246,584	490,032,577	71,785,993
Massachusetts	466,003,994	501,926,732	35,922,738
Michigan	828,533,266	909,761,902	81,228,636
Minnesota	425,664,013	485,442,279	59,778,266
Mississippi	310,973,491	367,059,847	56,086,356
Missouri	618,465,606	711,268,494	92,802,888
Montana	255,215,718	287,386,573	32,170,855
Nebraska	197,252,237	223,867,736	26,615,499
Nevada	172,076,917	210,350,302	38,273,385
New Hampshire	130,407,725	137,769,576	7,361,851
New Jersey	695,744,922	822,265,394	126,520,472
New Mexico	250,952,902	290,194,749	39,241,847
New York	1,292,715,319	1,366,155,757	73,440,438
North Carolina	755,312,308	872,183,722	116,871,414
North Dakota	166,994,190	189,098,718	22,104,528
Ohio	951,965,833	1,109,710,100	157,744,267
Oklahoma	413,931,430	459,904,524	45,973,094
Oregon	299,292,210	347,410,836	48,118,626
Pennsylvania	1,287,067,418	1,357,719,130	70,651,712
Rhode Island	134,484,666	154,154,462	19,669,796
South Carolina	424,589,865	511,384,433	86,794,568
South Dakota	174,696,675	202,845,805	28,149,130
Tennessee	572,103,666	672,761,834	100,658,168
Texas	2,183,334,526	2,574,558,747	391,224,221
Utah	190,146,092	220,645,255	30,499,163
Vermont	115,678,528	129,379,891	13,701,363
Virginia	697,407,933	830,852,486	133,444,553
Washington	448,545,807	519,595,013	71,049,206
West Virginia	285,867,458	325,592,845	39,725,387
Wisconsin	520,781,728	586,036,437	65,254,709
Wyoming	174,357,693	207,256,184	32,898,491
Subtotal	26,447,336,756	30,170,912,038	3,723,575,282
Allocated programs	9,103,451,278	8,794,320,215	−309,131,063
Total	35,550,788,034	38,965,232,253	3,414,444,219

Amounts include formula limitation, special limitation for equity bonus and Appalachia Development Highway System. Amounts exclude exempt equity bonus and emergency relief.

Allocated programs amount reflect NHTSA transfer of $121M.

Mrs. MURRAY. It is very important that we each understand the impact of not passing this joint funding resolution with the additional $3.75 billion in funding formula to each and every one of our States.

The failure to pass this resolution is also going to have a painful impact on hundreds of thousands of Americans when it comes to housing. In this bipartisan bill, we worked to make sure our vulnerable families would not be thrown out in the streets or face out-of-reach rent increases. We provided critical support for section 8 homeless assistance grants, housing equity conversion loans, HOPE VI, and public housing operating funds. If we do not pass this joint funding resolution and continue on a CR, that would mean housing vouchers are going to be lost, many of our low-income residents will become homeless, renters will be displaced or face unaffordable rent increases, and many of our seniors are going to lose a valuable source of equity. And importantly, efforts to replace deteriorating public housing units will be eliminated.

Clearly, for all I have walked through, the consequences of not passing the joint funding resolution are going to be severe for some of our country's most vulnerable families. It is clear that our communities across the board are going to pay a very high price unless we pass H.J. Res. 20 before us. I urge my colleagues to vote to allow our low-income families to keep

a roof over their heads. I urge my colleagues to vote to keep our safety inspectors on the job, to keep highway construction projects moving forward, to help our local law enforcement fight crime, and I urge Senate colleagues to vote to give our veterans the care and benefits they have earned.

I urge my colleagues to support H.J. Res. 20; otherwise, you will have to tell your veterans and your police officers, your commuters, your air traffic controllers, your public housing tenants, your housing advocates, and your airline passengers, pilots, and flight attendants why you voted against them.

I urge my colleagues this afternoon to vote for cloture and then allow us to finish H.J. Res. 20 so we can put the funding in place that is sorely needed in every area in our local communities and for the people we represent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I ask unanimous consent that I be recognized for up to 5 minutes, and that following my remarks, the remaining time until 12:30 p.m. be provided to the Republican side.

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

Mr. KOHL. Mr. President, today I have the unenviable task of encouraging my colleagues to support the continuing resolution that lies before the Senate. Loading all of the unfinished bills from last year into a continuing resolution that barely funds programs at adequate levels is not my idea of a job well done by the Senate. The Senate should have worked its will last year and passed these bills separately before the end of the fiscal year. But that is now water under the bridge. Our task today is to finish off this process so that we can move forward with a fresh start in a new year.

The continuing resolution before us is a stripped down, bare bones version of a funding bill. It contains no earmarks—not a one. It provides the minimum funding needed to protect our rural communities, and keep our farming economy going. It provides support for critical research that helps keep our agriculture sector productive and put food on our tables—but we have left it up to the USDA to apportion these funds. Critical efforts to protect rural drinking water and grow rural housing were also maintained. In short, we did the best we could to protect rural America, save small farms, and maintain a safe and reliable food supply.

I understand that some Members may not be happy with some of the difficult choices that we had to make. But the alternative is much worse. Continuing to live under the current funding agreement would have been devastating to rural America, agribusiness, and would have shaken consumers' faith in the food they buy at the local grocery store.

Without this continuing resolution, the Food Safety and Inspection Service would not have enough funds to get through the rest of the year. Without it, FSIS would have to lay off employees beginning in September. Without inspectors, 6,000 meat and poultry facilities would be shut down across the country. Do any of my colleagues want to explain to their constituents why they can't buy meat during the month of September? Without this CR, 700,000 people connected to the food industry will be laid off once the USDA can no longer inspect the meat produced in this country.

The proposal before us may not be perfect, but I believe it is a better alternative than endangering our food supply.

The cuts threatened by the current funding agreement will hurt more than just our grocery shopping habits. They will also be felt in doctor's offices and hospitals around the country. Continuation of the current CR will force the Food and Drug Administration to lay off 652 personnel. Some of these employees have the job of approving new medical devices. Does the Senate really want to force patients to wait up to 20 percent longer for the medical care that will help them recover? Does the Senate really want to stand in the way of these kinds of life and death decisions?

Sometimes in this body we can get caught up in the dollars and cents of the decisions we make, and lose track of the impact our votes have on real peoples lives. I understand that there are many of my colleagues that are concerned about the budget deficit. I am as well. I came to the Senate when there were record deficits, and we took difficult votes to get this country back into financial shape and create budget surpluses. I know what it takes to balance a budget. But not funding food inspections and delaying life saving medical care is not the way we should balance the budget. We have a responsibility to protect the health and welfare of the people back home. The current CR fails to fulfill that mission, but the bill we are going to pass succeeds.

Mr. President I yield the remainder of the time to my colleague from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, inquiry: Can you advise me how much time remains in morning business on both sides?

The PRESIDING OFFICER. The Republicans now control 16 minutes.

Mr. CORNYN. I thank the Chair. I thank the Senator from Wisconsin for his courtesy.

Mr. President, I would like to speak for no more than the next 10 minutes. If the Chair will advise me after the expiration of that time, then I will yield to the senior Senator from Texas.

The House passed a continuing resolution that is before the Senate. In fact, it is a $464 billion omnibus spending bill that makes major policy changes and shifts billions of dollars away from important national priorities.

The omnibus, I believe, is a flawed proposal and should be fixed before it becomes law, which means that amendments should be offered and voted on by the Senate.

Unfortunately, the majority leader has decided not to allow the usual process for amendments to be offered and voted on to occur and, in fact, has blocked those amendments, and it is unlikely we will have an opportunity to improve this Omnibus appropriations bill before it is voted on.

We have several amendments we are prepared to offer on this omnibus bill, if allowed to do so, which I do believe would measurably improve it. While our colleagues on the other side of the aisle have pledged, as we have, to support our troops, this bill will delay the return of many U.S. troops from overseas. We are prepared to offer a budget-neutral amendment to restore more than $3 billion in funding for the U.S. military. More than 12,000 American troops serving overseas will be unable to come home if the plan on the floor now becomes law without any amendments. The barracks necessary to house these returning troops will not be funded in this spending plan.

To have the majority not allow the Senate to vote on the proposed amendment which would restore this funding and support our troops and to prevent our troops from coming home to the facilities they need in order to accommodate them, to me, is simply a bad way to do business and is difficult for me to explain to my colleagues and my constituents back home.

The majority promised not to change policy through a spending bill but now have eliminated a bipartisan baby AIDS prevention program. We have an amendment by Senator COBURN that will ensure that more than $30 million dedicated to this lifesaving baby AIDS program is not blocked by this omnibus.

We were also told by the majority they believe in earmark reform, special projects that are funded through an earmark in the budget process, but they are in this Omnibus appropriations bill allowing what I would call back-door earmarking.

We have an amendment we are prepared to offer that would protect taxpayers' funds by guaranteeing that the omnibus is truly earmark free and by preventing back-room deals to fund wasteful programs after this bill is passed.

Finally, in a general sense, talking about the kinds of amendments that need to be offered and voted on on this bill, the majority promised to be sensitive to those who are in the most need of assistance, but this Omnibus appropriations bill takes money from crime victims, $1.2 billion, and spends it on other Government programs. This is simply, I believe, a bad way to do business and I think is inconsistent with the spirit of bipartisanship with

which this Congress started with the work we have been able to do on lobby and ethics reform, on minimum wage, and small business tax and regulatory relief.

I also have two other amendments I would like to call up to this bill that I wish to mention briefly, but unfortunately, as I already mentioned, the majority leader has seen fit to deny any Senator the opportunity, in this the world's greatest deliberative body, to even offer any additional amendments. Nevertheless, I wish to take a moment to highlight them.

The first amendment would restore funding to the Department of Energy's FutureGen Program and do so without busting the budget. FutureGen, as my colleagues know, is a demonstration project launched by President Bush in 2003 to test new technology in refining coal in generating electricity. If successful, FutureGen technologies could help lower energy costs, increase domestic energy resources, and eliminate harmful air pollutants.

On the Senate floor, we talk a lot about ending our reliance on foreign sources of energy, as well as our need to produce energy in the cheapest way possible.

The Omnibus appropriations bill that is on the floor, to which we are being denied an opportunity to offer amendments, pulls the carpet from under the FutureGen Program which seeks to address both of those needs.

Solutions to our energy future must be made by utilizing a variety of technologies, both traditional and new, innovative technology. We cannot turn our back on our most abundant domestic resource, coal, but we can make sure that the kind of innovation and research that this FutureGen project is designed to do can make sure we can use that domestic energy resource in a way that is entirely consistent with our universal desire to have a clean environment.

One other amendment I would offer would restore the cuts that the omnibus bill makes from the U.S. Marshals Service. This amendment also does not bust the budget. The Omnibus appropriations bill shortchanges the men and women in the U.S. Marshals Service who are on the frontlines protecting the safety of our Federal judges and our court personnel.

Every day the Marshals Service protects more than 2,000 sitting Federal judges, as well as other court officials, at more than 400 courthouses and facilities across the Nation. The protection of our Federal judges by the U.S. Marshals Service is one of the most important and perhaps least-recognized assignments in law enforcement. But a disturbing trend is afoot. Increasingly, judges, witnesses, courthouse personnel, and law enforcement personnel who support them are the subject of violence simply for carrying out their duties.

We can all agree that the safety of our men and women who serve in these important law enforcement capacities deserve the proper funding necessary for them to do their job.

Mr. President, I regret, more with a sense of disappointment than anger, the fact that the majority leader has denied us an opportunity to offer amendments on any of these priorities, matters which I think we can all agree deserve our consideration and close scrutiny. But given the fact that, rather than the bipartisan cooperation we were promised at the outset of this Congress, we are seeing basically a my-way-or-the-highway approach to this Omnibus appropriations bill, not only are our troops not going to get the $3.1 billion that is necessary to provide housing and assets for them to return home, but we know clean coal-burning technology and research is going to be denied and put off, pushed down the road with harm to our Nation and, finally, we know the U.S. Marshals Service, responsible for protecting our Federal judiciary, is going to be denied the resources they need to do their job.

This is simply not the right way to do business, certainly not in the bipartisan spirit which we were promised at the outset of this Congress. I hope that the majority leader will reconsider and allow us to offer amendments and have an up-or-down vote on each of these amendments.

I yield the floor.

Mrs. HUTCHISON. Mr. President, how much time remains in morning business?

The PRESIDING OFFICER. A little less than 7½ minutes. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be notified at 3½ minutes, and I will then leave the rest of our time for the distinguished Senator from South Carolina.

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

Mrs. HUTCHISON. Mr. President, I am very troubled by this process. We are taking up a $463 billion appropriations bill. There is no amendment on the House side and no amendment on the Senate side being allowed. We are going to cloture with no capability of amendments. Yet the deadline for this bill is February 15. We have several days in which we could offer amendments, debate amendments, and go back to the House, if we set our minds to doing it. And if there was a true bipartisan spirit, we would be able to do that.

It has been said we didn't pass these appropriations bills last year, and that is correct. We didn't for a variety of reasons, some of which was obstruction from the other side and some of which was obstruction on this side. I understand that. But now we are where we are. We have been here before.

When the Republicans took control in 2003, after the Democrats had the majority, we didn't put a continuing resolution forward for the 11 appropriations bills that had not been passed. We put forward an Omnibus appropriations bill, a bill that was amendable. There were, in fact, 100 amendments offered. There were 6 days of debate, and the bill was passed with mostly Democratic amendments.

I do think, in a sense of fairness, that is what was expected when the majority switched, that we would have an Omnibus appropriations bill with some reasonable number of amendments. Our leadership certainly offered a limited number with a limited time for debate. We wouldn't have had to have a cloture vote if we had been able to have that open dialog, but we didn't. Now we have a $463 billion bill, in which $3 billion has been taken out of what this Congress passed last year for military construction to prepare for the base closing law we passed and to implement that on the deadline we made, which was 6 years. There was a request for $5.6 billion that was necessary for us to bring 12,000 troops home this year and to go forward with the rest of the appropriations for the troops coming home from overseas, and $3 billion was taken out of the bill that has passed and put into other priorities with no hearings and no amendments allowed on the floor.

I don't see that is in any way able to be described as fair, bipartisan. It is not the way we ought to do business in the Senate.

So here we are taking $3 billion from our military accounts and putting them into accounts throughout the Federal Government. I cannot think of anything more important than making sure our troops, when they come home from overseas, have living conditions and training facilities that we are trying to provide for them. The reason we are moving them home from overseas is to give them better training facilities. That is what the bulk of the $3 billion is going to do, and that is why we need to stop cloture on this bill, offer one or two amendments and send the bill to the House. We have plenty of time to work out something so simple.

The PRESIDING OFFICER. The Senator is at the 3½-minute mark.

Mrs. HUTCHISON. Mr. President, I urge my colleagues: Do not vote for cloture on this bill yet. We will have plenty of time to fund the other priorities in the bill, but we can also add amendments. This is the Senate. There are 100 Members, and we should have a say in a $463 billion omnibus appropriation.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I rise today to speak about my amendment No. 253 that I would like to offer to the fiscal year 2007 omnibus spending bill.

My amendment seeks to strengthen the provisions in section 112 dealing with earmarks. According to the sponsors, the goal of this section is to turn off the hidden earmarks for this year's spending, but, unfortunately, it does not achieve that goal.

First, the language in H.J. Res. 20 say—on page 9—that hidden earmarks shall have no ''legal effect,'' but it does not clearly state that hidden earmarks shall have no guiding effect. These earmarks already have no legal effect. The point of this section was not to restate current law, but rather to make it clear that hidden earmarks have no effect, legal or otherwise.

As my colleagues know, over 95 percent of all earmarks are not even written into our appropriations bills. If we don't fix the language in this resolution we are debating today, all of these earmarks could continue. It is not certain that they will but they could and that is something we should fix to protect American taxpayers.

Our Federal agencies need to understand that hidden earmarks mean nothing and should be completely ignored in their decisionmaking. Our Federal agencies need to spend American tax dollars in ways that meet their core missions and serve true national priorities. Federal agencies should not feel pressure to fund special interest earmarks written by the powerful lawmakers who may cut their funding in retaliation.

Second, the language in H.J. Res. 20 applies to hidden earmarks in the fiscal year 2006 committee reports, but it does not turn off the hidden earmarks buried in committee reports prior to 2006 or those after it. In addition, the language does not turn off earmarks that may be requested through direct communications between lawmakers and our Federal agencies, either by phone or in private emails.

I understand that the Democratic leader is not going to allow any amendments. The Democratic leader scheduled this debate right before the Government's current funding expires so we will all be forced to accept it. This practice has been going on for years, and I am afraid it has become very destructive.

We are going to vote on whether to cut off debate on this measure today at 2:30 p.m. and I will be forced to oppose that motion. Since the Democratic leader has blocked me and other Senators from getting votes on our amendments, I cannot in good conscience vote to cut off debate. My amendment makes small changes to this resolution that would greatly improve its integrity, and there is still time to send this measure back to the House for its approval.

I also want to make it clear that while we have a responsibility in this body to address hidden earmarks in this resolution, the President also has a responsibility to do his part. In a letter that I sent last week, I called on him to instruct his agencies to ignore all earmark requests that do not have the force of law, and I believe he will. He said in the State of the Union Address this year that:

> Over 90 percent of earmarks never make it to the floor of the House and Senate—they are dropped into committee reports that are not even part of the bill that arrives on my desk. You didn't vote them into law. I didn't sign them into law. Yet, they're treated as if they have the force of law. The time has come to end this practice.

It appears as though our Federal agencies are beginning to follow through on the President's directive. Last week, a memo was circulated at the Department of Energy that said:

> Because the funding provided by H.J. Res. 20 will not be subject to non-statutory earmarks and the President's policy on earmarks is clear, we must ensure that the Department only funds programs or activities that are meritorious; the Department itself is responsible for making those determinations.

This is a great sign of progress and I hope other agencies will circulate their own memos to this effect. Our agencies have been under the thumb of powerful appropriators for so long, it may be difficult for them to transition to a world without earmarks. But that is what they must do because that is what the American people expect. Americans want their Federal tax dollars to be spent in competitive ways that meet the highest standards. If a project is going to get Federal funding, they expect—just like with a Federal contract—that the money go to the project with the most merit regardless of whose State or district it is in.

We are making great progress on reforming our budget process and reducing earmarks, and I urge my colleagues to help us continue this progress and win back the trust of the American people.

Mr. President, I wish to make a few additional comments about my amendment No. 253 to the fiscal year 2007 omnibus spending bill. This is an amendment that would strengthen a provision in the bill that is under section 112. This gets back to the earmark discussion. The Senate can be proud of the debate and the votes we have taken to disclose earmarks and to eliminate the hidden earmarks that have been added in conference for years. Unfortunately, the language in this omnibus bill continues the status quo. It says that earmarks have no legal effect. It does not take the debate we have all agreed on and make it a prohibition that earmarks cannot be added in conference.

We know that 95 percent of earmarks are in report language. They do not have the force of law. Yet, through intimidation and other ways, Congress has been able to get the executive branch to follow through on these earmarks for years. My amendment would simply go back to what we have already agreed on as a Senate and prohibit these wasteful, hidden earmarks that waste billions of taxpayer dollars every year from being included in report language.

I am encouraged that the White House is responding. We have a memo that the Energy Department sent out last year to its managers telling them not to give preferential treatment to nonbinding, nonlegal congressional earmarks; that earmarks should be meritorious, as they said in their memo, before they are considered. This would free up all the Federal agencies to focus their spending and their time on Federal priorities, not just specific special interest earmarks that a Member of Congress happens to attach to a bill.

I understand the majority leader is not going to allow any amendments. That is very regrettable, particularly since it leaves out something on which I think we all agree.

The cloture motion we have been asked to vote on at 2:30 is a motion to cut off debate. That means we can no longer talk about the provisions in ways that could improve this bill. For that reason, I am going to have to vote against cloture and hope the majority leader will reconsider, particularly amendments like this which are easy and which this Chamber has already voted unanimously to support.

Mr. President, with that, I yield back.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

There being no objection, the Senate, at 12:30 p.m., recessed until 2:14 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.J. Res. 20, which the clerk will report by title.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 20) making further continuing appropriations for the fiscal year 2007, and for other purposes.

Pending:

> Reid Amendment No. 237, to change an effective date.
>
> Reid Amendment No. 238 (to Amendment No. 237), of a technical nature.
>
> Motion to recommit the bill to the Committee on Appropriations, with instructions to report back forthwith, with Reid Amendment No. 239, to change an effective date.
>
> Reid Amendment No. 240 (to the instructions of the motion to recommit), of a technical nature.
>
> Reid Amendment No. 241 (to Amendment No. 240), of a technical nature.

The PRESIDING OFFICER. Under the previous order, the time until 2:30 will be equally divided between the two leaders or their designees.

Who yields time? The Senator from West Virginia.

Mr. BYRD. Mr. President, I can do this, I think in 5 or 6 minutes. I yield myself such time as I may consume. Am I recognized?

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. Mr. President, today is the 136th day of fiscal year 2007. It is