

wiretaps which are not supported by affidavit or probable cause and court authorization. We have it within our power to alter that today if we would come to grips with the issues on all the calls originating in the United States and going out and then, to repeat, to allow the court to decide whether the President is correct on whether calls outside coming in are covered by his article II powers.

It is my hope that this legislation will be taken up early in the next session because we ought to come to grips with the balance of rights versus security.

HEDGE FUNDS

Mr. SPECTER. Mr. President, earlier today the Judiciary Committee held a hearing on hedge funds and what is happening in that important area where we now find that we have an area in the securities field which involves some \$1.3 trillion, some 30 percent of the stock trading, and no regulation. The Judiciary Committee held hearings contemporaneously with the consideration of Sarbanes-Oxley and that legislates in the field to deal with criminal sanctions for insider trading violations. The issue which we took up in some detail in the Judiciary Committee today involves allegations that there was insider trading, a matter yet to be resolved. But out of the Judiciary Committee inquiry, draft legislation has been circulated which has three very important provisions.

First of all, on criminal jurisdiction there are Federal decisions which have precluded the Department of Justice from collaborating with the Securities and Exchange Commission. The draft legislation which has been circulated would authorize that. There is no reason the SEC and the Department of Justice should not be able to collaborate when they find evidence of criminal conduct to act to prosecute.

The second provision of the draft legislation would authorize more compensation for whistleblowers. The fact is, the SEC is doing very little by way of encouraging whistleblowers to bring forward insider information and to stop insider trading. The legislation would authorize the Attorney General to provide for compensation up to 30 percent for whistleblowers from a penalty, fines or settlement, and also protection for the whistleblowers.

The third provision in the draft legislation which has been circulated would provide for regulations on small investors who do not have the sophistication to conduct due diligence and also for pension funds which are invested in hedge funds.

The testimony of the attorney general from Connecticut, Richard Blumenthal today went into some detail about how the failure of Amaranth recently, which amounted to some \$6.5

billion, touched pension funds and many of the small investors.

We have circulated this legislation, and we will be asking for comments. I thought I would describe it very briefly this afternoon. It will be introduced formally as soon as we have had an opportunity to get comments from interested parties.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 4081 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from West Virginia.

APPROPRIATIONS FAILURE

Mr. BYRD. Mr. President, one of Congress's most fundamental duties is to make careful choices about how to spend the taxpayers' dollars. We are now over 67 days into the fiscal year. The Senate has passed only 3 of the 12 appropriations bills. Only two of the bills have been signed into law. The operations of government for 13 of the 15 executive branch Cabinet departments are being funded by a very restrictive continuing resolution. This dismal performance is not the result of the work of the Committee on Appropriations. The Committee on Appropriations did its work and on a bipartisan basis reported all 12 of its bills by July 26. Chairman COCHRAN did an outstanding job in leading the committee. Yet the appropriations process, once again, has fallen victim to politics.

Before the November election, the Senate majority leadership decided that the Senate should not be given an opportunity to debate critical issues facing the Nation, so 8 of the 12 bills never came before the Senate. When it comes to the funding bills for domestic agencies, with the exception of Homeland Security, the majority leadership—and I say this respectfully—is apparently satisfied with a mindless continuing resolution. When it comes to the education of our children, the health of our elderly citizens, the ability of our deteriorating infrastructure to sustain a growing economy, the majority leadership apparently wants no debate, just a rubberstamp of a formula-based continuing resolution for 13 of the 15 departments.

The majority leadership made a specific choice to delay bringing the domestic appropriations bills to the floor because it wished to avoid an open debate in the Senate about many issues confronting Americans in their daily lives.

The President submitted a budget for domestic programs that cut funding by \$14 billion below the level necessary to keep pace with inflation. The President's proposal to increase fees on our veterans for their health care is indefensible. The White House proposed cuts in education and in programs to

fight crime. The President's budget is not sustainable. Yet behind closed doors the majority leadership inserted an \$872.8 billion cap on spending at the level proposed by the President's budget. This was done by jamming a cap on spending in an unamendable conference report intended to provide disaster relief for the victims of Hurricane Katrina and to fund the efforts of our troops serving heroically in Iraq and Afghanistan.

To avoid debate on the domestic appropriations bills, the Senate majority leadership kept the Senate operating at a snail's pace all summer. In July, the Senate had rollcall votes on just 9 days. In August, we voted on only 3 days. How about that? In September, we had votes on just 10 days. So in the 3 months in which the Senate should have been in overdrive to finish the appropriations bills, we had votes on only 22 days. That is a pathetic, a sorry performance.

Why? Apparently the majority wants to avoid debate about its broken promises concerning the No Child Left Behind Act. The President's budget proposed the largest cut to education funding in the 26-year history of the Education Department—a \$2.1 billion or 4 percent reduction. This is a nonsensical squandering of the future of our children, the American people's children.

The Labor, HHS, and Education appropriations bill underfunds the title I program, the cornerstone of the No Child Left Behind Act, by a whopping \$12.3 billion. Rather than increasing funding to meet this commitment, the bill freezes funding for this program. As a result, this bill leaves behind 3.7 million students who could be fully served by title I if the program were funded at the level promised by the No Child Left Behind Act. I offered an amendment in the committee markup to increase title I funding by \$6.1 billion, half of this year's shortfall. What happened? The Republican majority rejected it. Was the Senate, the full Senate, given an opportunity to debate the need to invest in the education of our children? No. Let me repeat: Was the Senate given an opportunity—I am talking about the whole Senate, the full Senate—to debate the need to investigate the education of the country's children? No.

In June, the FBI released its violent crime figures. The FBI found that murders in the United States jumped 4 percent last year, and overall violent crime was up by 2.5 percent for the year, the largest annual increase in crime since 1991. Yet what happened? The President proposed to cut law enforcement grants to State and local governments by \$1.2 billion and to eliminate the COPS hiring program. Was the Senate given an opportunity to debate how best to respond to the

largest annual increase in crime in 15 years? No.

On July 19, the Commissioner of Social Security wrote to me a letter in which she stated that the level of funding in the Labor-HHS bill "would require employee furloughs of approximately 10 days Agency-wide." That is what she said: "would require employee furloughs of approximately 10 days Agency-wide." Has the Senate, the full Senate, the 100 Members of the Senate, had a chance to debate whether our elderly citizens want long lines at our Social Security offices? No.

The Environmental Protection Agency projects that our communities need in excess of \$200 billion for clean and safe drinking water systems. Yet the Interior appropriations bill would cut funding from a level of \$1.1 billion in fiscal year 2005 to \$687 million in fiscal year 2007, a cut of 38 percent. Has there been any debate in the Senate about the need for safe and clean drinking water in our communities? Has there? The answer is no.

If there is one lesson we all should have learned from Hurricane Katrina, it is that there are consequences to starving Federal agencies. FEMA, which performed marvelously after the North Ridge earthquake, the Midwest floods, and the September 11 attacks, simply was no longer up to the task when Hurricane Katrina hit the gulf coast last year.

Now, which other Federal agencies are going to be the next FEMA? I wonder. I wonder which other Federal agencies will be the next FEMA. Could it be the Food and Drug Administration? Has the Senate had an opportunity to debate whether FDA has the resources and the leadership it needs to make sure we have safe food and safe drugs? I will ask the question, again. Has the Senate, the full Senate, had an opportunity to debate whether FDA has the resources and leadership it needs to make sure we have safe food and safe drugs? No.

The cost of attending a public 4-year college has increased 32 percent since the beginning of this administration. Yet the maximum Pell grant award has not been increased since 2002. Has the Senate discussed the wisdom of making it harder for our children to afford a college education? Hear me. No.

On the heels of the first cut to funding for the National Institutes of Health since 1970, the President proposed level funding of NIH in fiscal year 2007. As a result, the total number of NIH-funded research project grants would drop by 642 or 2 percent below last year's level.

The President's budget would cut funding for 18 of the 19 Institutes of Health. Funding for the National Cancer Institute would drop by \$40 million, and funding for the National Heart, Lung, and Blood Institute would drop by \$21 million. Has there been a debate about the wisdom of these cuts? No.

When the Congress returned to session after the elections, Senator HARRY REID and I urged the Senate Republican leadership to complete the fiscal year 2007 appropriations process prior to adjourning sine die. Apparently, this request fell on deaf ears. Even with the elections over, the Republican leadership could not bring itself to govern, to make choices.

Instead, apparently, the House Republican leadership has decided to send the Senate a third continuing resolution that will last until mid-February—mid-February. Instead of making careful choices, they, apparently, have chosen to punt—to punt—the funding decisions for 13 departments, for over \$463 billion of spending, to the next Congress.

What a sad mess. What a sad mess.

Under the continuing resolution, 500,000 veterans will have to wait longer for their health care or not get health care at all. Lines at our Social Security offices will get longer. Our elderly will find it more difficult to get answers to their questions about the new prescription drug benefit or about their retirement benefits. Commitments to address our clogged highways with more funds for highway construction will have to wait. Efforts to protect the food supply will be undermined by furloughs of meat and poultry inspectors. This is no way—this is no way—to do our Nation's business.

When I was chairman of the Appropriations Committee from 1989 to 1994, and in 2001, the Senate debated and passed every appropriations bill but one. And it takes persistence, determination, and a commitment to the Senate to debate and approve all of the bills. Chairman COCHRAN has that determination, and he was successful last year in bringing every bill to the Senate floor. However, the majority leadership, apparently, does not value that persistence, that hard work, that determination. Apparently, in an election year, the only thing of value was the politics of the moment.

Mr. President, the irresponsible actions of the Republican leadership are setting the stage for the beginning of the 110th Congress next year. In January, the new Congress will be faced with approving funding for 10 leftover bills for fiscal year 2007, a large war supplemental, and 12 bills for fiscal year 2008. Where the Republican leadership could do no more than pass two annual appropriations bills all year, the Democrats will be expected to pass 22 annual bills and a supplemental.

And this will be a huge, a huge—I would say a whopping—challenge. However, in the bipartisan tradition of the Senate Appropriations Committee, I am committed to working with my colleagues on both sides of the aisle to meet this challenge.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia yields.

The Senator from Ohio.

2007 APPROPRIATIONS

Mr. VOINOVICH. Mr. President, I rise to address my serious concern about our movement toward a decision to adjourn the 109th Congress without completing our work on the remaining 2007 appropriations bills and to recognize, also, my friend and senior Senator from the State of Ohio, Mr. MIKE DEWINE.

As my colleagues are well aware, the fiscal year 2006 appropriations expired on September 30, 2006. And with the exception of the Departments of Defense and Homeland Security, the Federal Government is currently operating on its second temporary continuing resolution, set to expire on December 8, 2006. We now intend to enact a third continuing resolution to fund the Government into February 2007.

Passage of a long-term continuing resolution, as some have advocated, means the Federal Government will work without a budget for at least 5 months into the current fiscal year, without knowing what spending levels will be approved for discretionary programs. Federal Departments and agencies will be forced to oversee programs and manage employees without knowing whether they are overspending their fiscal year 2007 budgets.

This approach toward managing our Nation's checkbook is indicative of Congress's attitude toward fiscal discipline and is a serious problem. Other Senators have spoken about how serious the problems are. And Senator BYRD did a very good job of outlining the serious impact that our not passing our appropriations on time is going to have on some of our Departments in the Federal Government. And earlier, Senator SPECTER did the same thing. We are aware of the problems it is going to create for the management of our Government.

Operating without a budget impacts our effectiveness in fighting the war on terror. It affects our ability to maintain and improve our transportation infrastructure and enhance our educational system. And it further contributes to the public perception that Congress has no appreciation of the importance of good management and the importance of hiring the right people with the right knowledge and skills at the right time and at the right place.

This is not a good record for either side of the aisle. And with due respect to the senior Senator from West Virginia, I think it cannot be laid at the feet of the Republicans; it should be laid at the feet of both Republicans and Democrats. This is not a partisan issue. Congress has the power of the purse, but we are not the best stewards of the taxpayers' money if time after time we pass omnibus bills without even knowing what is in them, and if,