

Grandmothers raising their grandchildren, living on fixed incomes, relying—because they have no choice but to rely—on food pantries, on food donations, on food banks.

The unemployed, the sick, the aged, the homeless, the mentally ill. And in Hocking County, 1 out of 14 people went to one food bank on 1 day. There are people who live in the communities that all of us serve. Food banks in Ohio, in Montana, Michigan, Illinois, Arizona, New York, New Mexico, North Dakota, and Rhode Island and in every State of the Union are underfunded and overextended. Food banks too often are rationing rations, trying to prevent children and families from going hungry over the holidays. In Lorain, OH, my hometown, the Salvation Army Food Pantry ran out of food completely and was forced to close temporarily. The society of St. Vincent de Paul Food Pantry in Cincinnati has been forced to give families 3 or 4 days of food instead of the customary 6 or 7 days of food when people come to see them. In Athens County, OH, earlier this month, the director of the Family and Friends Choice Pantry was actually “praising God we are in a snowstorm and not many people showed up” because if they had, her pantry would have run out of food. In Ohio as a whole, 70 percent of food pantries don’t have enough food to serve everyone in need.

That is why earlier last week I offered legislation to act to alleviate the current food shortage. That is why I want to see us include \$40 million in emergency food aid for food pantries across my State and across the country. I appreciate the leadership of Senator DURBIN and Majority Leader REID in wanting to include this at the next opportunity come January to get this \$40 million out to the States, out to churches and food banks and food pantries so that the 1 out of 14 people in Hocking County and people in need all over this country can get the assistance we can afford to give them.

Mr. DURBIN. Mr. President, will the Senator from Ohio yield for a question?

Mr. BROWN. I yield to the senior Senator from Illinois.

Mr. DURBIN. Mr. President, I would like to ask through the Chair—I want to first thank the Senator from Ohio for his leadership on this issue. He is new to the Senate but not new to this issue.

Times have changed in America, and not for the better when it comes to food pantries. People need help. I just this Sunday visited the Greater Chicago Food Depository and learned that there is an 11-percent increase over last year in the number of people coming into food pantries served in the greater Chicagoland area, and most of them have jobs. These are people who, when they fill up the gas tank and need another \$20 to fill the tank, realize they are not going to have enough money to buy food for their children that they planned on buying, and they make a stop at the food pantry.

I would like to ask the Senator from Ohio whether he is familiar with Second Harvest, which is a major national organization that involves itself in the processing of contributions from private industry and from the Federal Government into food pantries, and whether he has any experience in dealing with the Second Harvest food pantries in his area or other food pantries.

The last point I would like to make is that we were told on Sunday that people who care, particularly during this holiday season, should go to secondharvest.org, but find their local pantry, find where they can drop off food, volunteer for an hour, make a donation, do something that will make you feel good about yourself this holiday season.

But I would like to ask the Senator from Ohio whether he has been contacted by these agencies dealing with Second Harvest.

Mr. BROWN. Mr. President, I thank the senior Senator from Illinois for his work on food issues and on other issues, including everything from subprime to minimum wage and all issues where we can play a role in improving the lives of people who, as the Senator from Illinois said, are working, in most cases, full-time jobs.

Second Harvest is one of the great organizations in this country—in Illinois, in Ohio, in Nevada, and in Vermont, all over this country. I urge people, understanding that Second Harvest is not getting the donations they used to get, they are not getting enough help from the Government, they are not getting as much from supermarkets and from businesses as they got before, and they, frankly, are not getting as many charitable donations because people who gave before sometimes are in need themselves because it is often people who don’t make a lot of money who are the most generous with their money and with their assistance, to plea to people in our States, businesses, individuals who are as lucky as we are in this Chamber, to help Second Harvest, to go on Web sites and look in the yellow pages and look around their communities where they can help people so that this will actually make a difference. So I thank the Senator from Illinois for his interest.

Mr. REID. Mr. President, I mentioned to my friend from Ohio a fact that I just heard. I hope it is wrong, but if it is wrong, it is not much wrong. The average income of people who vote in America today is \$70,000 a year. I am very happy we have people who have a little—people of means who are voting, but the reason I mention that is the last two issues that have been brought before the Senate, one dealing with LIHEAP—that is, how people stay warm in the wintertime; that was by the Senator from Vermont, Mr. SANDERS—and now the Senator from Ohio is talking about food banks. In Nevada, 25 percent of the homeless are veterans, and we have a very difficult problem, especially in Las Vegas. The weather is

warm most of the time. We have people who are homeless there who are destitute. Food banks is the difference between being very hungry and having something to eat.

I, at one time, in disguise, spent 2 days with the homeless. It was a number of years ago that I did that, but it is something I will never forget. People are not there because they want to be. They are not there because they are lazy. There are some who are alcoholics, and there are some who have drug problems, there is no question about that. But there are so many of these people who have emotional problems who have no community health centers where they can go, so they are just down and out.

All the Senator from Ohio is saying is that food banks, the places where the poorest of the poor go to get a meal, don’t have food. I want the attention to be directed to the last two things we have tried to work on: keeping people warm in the wintertime and helping people so they are not starving. So I appreciate this.

The people who are cold in the wintertime don’t have people to come and lobby for them. People who are homeless don’t have people here lobbying for them, coming in their limousines and parking over on Constitution Avenue, and sometimes they are in their Gucci shoes and they have to walk all the way across half a block to come and lobby for some of the tax breaks they want. For people who are hungry and people who are cold, that isn’t the case. So I appreciate very much the Senator from Ohio bringing to the attention of the Senate something that needs to be done.

CONSOLIDATED APPROPRIATIONS ACT, 2008

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate the message from the House on H.R. 2764.

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate a message from the House.

The legislative clerk read as follows:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2764) entitled “An Act making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, and for other purposes,” with amendments.

CLOTURE MOTION

Mr. REID. Mr. President, I move to concur in the amendments of the House. I have a cloture motion.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to concur in the House amendments to

H.R. 2764, State, Foreign Operations Appropriations, 2008.

Harry Reid, Jeff Bingaman, Barbara A. Mikulski, Byron L. Dorgan, Daniel K. Inouye, Patrick Leahy, Max Baucus, Mark Pryor, Debbie Stabenow, Kent Conrad, Patty Murray, Bill Nelson, Jack Reed, Ken Salazar, Blanche L. Lincoln, Tom Carper, Herb Kohl, Ben Nelson, Dick Durbin.

Mr. REID. Mr. President, the manager of this bill is going to be the chair of the Foreign Operations Subcommittee. Senator BYRD has designated Senator LEAHY to manage this bill. During the hour that is prior to this cloture vote, we have a few people who want to speak; maybe not all the time will be used. I hope during the evening people will be considerate of talking when they have to. These issues are fairly well pronounced now. We know what they are. We have a domestic spending bill that has been worked out through the House and the Senate, Democrats and Republicans. We have the White House which has been involved in that. That part should be fairly easy. It may not be everything we want, it may be more than what some want, but it should not take a lot of time.

We have three amendments relating to the debate on the war funding. One is the McConnell amendment which will try to increase war funding up to \$70 billion out of the \$196 billion the President has asked for. We also are going to have an amendment offered by Senator FEINGOLD that will deal with a matter we brought before the Senate on other occasions which calls for our troops to be back by the middle of May of this next year, leaving troops to take care of counterterrorism, force protection, and training the Iraqis to a limited extent. Then we have an amendment which will be offered by Senators LEVIN and REED that will call for additional funding for Iraq, but in addition to that, it will have some accountability that is now not in existence.

Mr. President, as the majority leader, I designate Senator LEAHY as the controller of our time during the debate on this matter.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour for debate equally divided between the two leaders or their designees prior to the vote on the motion to invoke cloture.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I will hopefully not even need the full hour, and we will be able to go ahead and have the cloture vote. I believe Senator GREGG is going to be managing on the Republican side once he gets here. Hopefully, it will be possible to just yield back all of our time before the end of the hour and go to a vote. I will yield in just about 3 minutes to Senator MURRAY from Washington State for 10 minutes.

Mr. CRAIG. Mr. President, will the Senator consider yielding to me for no

more than 5 minutes on a separate issue before we get heavily into the debate?

Mr. LEAHY. Mr. President, the time has been equally divided, and I ask unanimous consent that the Senator from Idaho, when recognized, be able to take 5 minutes from the time set aside on the Republican side.

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

Mr. LEAHY. Mr. President, I am pleased that the Congress will send the Openness Promotes Effectiveness in our National Government Act—the “OPEN Government Act”—S. 2488, to the President for signature before the end of this year. With House passage of this bill today, and the Senate’s passage of it last Friday, this historic, bipartisan, bicameral legislation becomes the first major reform to the Freedom of Information Act, FOIA, in more than a decade. The American people will have a new law honoring the public’s right to know under the tree this holiday season.

I commend House Government Reform and Oversight Committee Chairman HENRY WAXMAN for moving quickly to enact this bill, and for his leadership of the successful effort to pass FOIA reform legislation in the House of Representatives. I thank him and his staff, including Anna Latin, Michelle Ash and Phil Schiliro, for all of their hard work on this legislation. I also commend Representative WILLIAM “LACY” CLAY, JR., for sponsoring this legislation in the House.

I also thank the members of my staff who worked on this bill—Lydia Griggsby, Lauren Brackett, Erica Chabot, Bruce Cohen and Leila George-Wheeler—for all of their hard work on this bill.

I also commend the bill’s chief Republican cosponsor in the Senate, Senator JOHN CORNYN, for his commitment and dedication to passing FOIA reform legislation this year.

I am also appreciative of the efforts of Senator JON KYL for cosponsoring this bill and helping us to reach a compromise on this legislation this year. I also thank the more than 115 business, news media and public interest organizations that have endorsed this legislation.

As the first major reform to FOIA in more than a decade, the OPEN Government Act will help to reverse the troubling trends of excessive delays and lax FOIA compliance in our government and help to restore the public’s trust in their government.

This legislation will also improve transparency in the Federal Government’s FOIA process by: restoring meaningful deadlines for agency action under FOIA; imposing real consequences on Federal agencies for missing FOIA’s 20-day statutory deadline; clarifying that FOIA applies to government records held by outside private contractors; establishing a FOIA hotline service for all Federal agencies; and creating a FOIA Ombudsman to

provide FOIA requestors and Federal agencies with a meaningful alternative to costly litigation.

The OPEN Government Act will protect the public’s right to know, by ensuring that anyone who gathers information to inform the public, including freelance journalists and bloggers, may seek a fee waiver when they request information under FOIA.

The bill ensures that Federal agencies will not automatically exclude Internet blogs and other Web-based forms of media when deciding whether to waive FOIA fees. In addition, the bill also clarifies that the definition of news media, for purposes of FOIA fee waivers, includes free newspapers and individuals performing a media function who do not necessarily have a prior history of publication.

The bill also restores meaningful deadlines for agency action, by ensuring that the 20-day statutory clock under FOIA starts when a request is received by the appropriate component of the agency and requiring that agency FOIA offices get FOIA requests to the appropriate agency component within 10 days of the receipt of such requests.

The bill also clarifies that the Supreme Court’s decision in *Buckhannon Board and Care Home, Inc. v. West Virginia Dep’t of Health and Human Resources*, which eliminated the “catalyst theory” for attorneys’ fees recovery under certain Federal civil rights laws, does not apply to FOIA cases.

Furthermore, to address concerns about the growing costs of FOIA litigation, the bill also creates an Office of Government Information Services in the National Archives and creates an ombudsman to mediate agency-level FOIA disputes.

In addition, the bill ensures that each Federal agency appoints a Chief FOIA Officer to monitor the agency’s compliance with FOIA requests, and a FOIA Public Liaison who will be available to resolve FOIA related disputes. And, the bill creates a better tracking system for FOIA requests to assist members of the public and clarifies that FOIA applies to agency records that are held by outside private contractors, no matter where these records are located.

Finally, this bill contains a number of key improvements championed by Chairman WAXMAN. The bill includes “pay/go” language that will ensure that attorneys’ fees that are awarded in FOIA litigation are paid for with annually appropriated agency funds.

The bill also eliminates a provision on citations to FOIA (b)(3) exemptions contained in the earlier Senate bill. In addition, the bill includes a new provision that requires Federal agencies to disclose the FOIA exemptions that they rely upon when redacting information from documents released under FOIA.

And the bill adds FOIA duplication fees for non-commercial requestors, including the media, to the fee waiver penalty that will be imposed when an

agency fails to meet the 20-day statutory clock under FOIA.

The enactment of FOIA reform legislation this year is an important milestone in the effort to restore openness and transparency to our government. By sending this meaningful FOIA reform bill to the President this year, the Congress also sends a powerful message to the American people that the era of excessive government secrecy has come to an end.

While I am pleased that the reforms contained in the OPEN Government Act will ensure that FOIA is reinvigorated for future generations, my work to strengthen FOIA will not end with the enactment of this legislation.

There is much more work to be done to ensure that we have a government that is open and accountable to all Americans. And I will continue to work with Senator CORNYN, Chairman WAXMAN and others to further strengthen this vital open government law.

I urge the President to promptly sign this open government legislation into law at the earliest opportunity.

So again, I am pleased today that the Congress is going to send the Openness Promotes Effectiveness in our National Government Act—also known as the OPEN Government Act—and for those who follow this issue, FOIA. They are going to send it to the President before the end of this year. With passage of this bill today in the House and the Senate's passage of it last Friday, this historic, bipartisan, bicameral legislation becomes the first major reform of the Freedom of Information Act in more than a decade. The American people are going to have a new law honoring the public's right to know, and they will have it during this holiday season.

I commend the House Government Reform and Oversight Committee chairman, HENRY WAXMAN, for moving quickly to enact this bill and for his leadership. I wish to thank him and his staff, including Anna Latin, Michelle Ash, and Phil Schiliro, for all of their hard work on the legislation.

I commend also the chief Republican cosponsors in the Senate, Senator JOHN CORNYN and Senator JON KYL, for joining me in this effort.

The reason this legislation is so important is that throughout my whole career in the Senate, I have always supported the idea of the Freedom of Information Act. We all know no matter who is in the administration, whether it is a Democratic or a Republican administration, that when they do things they want us to know about, the press releases flow. When they make a mistake—and all administrations do—they would just as soon we not know about it, whether money has been wasted or whether a policy has not been followed. The Freedom of Information Act allows the American public—and after all, the Government serves them—to find out, through individual private citizens, and through the press, what is happening in their

government. It has saved billions of dollars over the years because of what they found out, but more importantly, it has kept our Government honest. I wrote the Electronic Freedom of Information Act which allowed us to use the Internet and electronic files for that purpose.

But this month, the Open Government Act—the first major reform in more than a decade—is going to help reverse the troubling trends of excessive delays, the lax compliance with FOIA and will help restore public trust in our Government. It will improve transparency and restore meaningful deadlines for agency action under FOIA. It will also impose real consequences on Federal agencies who miss the 20-day statutory deadline. It will clarify that FOIA applies to Government records that are held by outside private contractors. The Open Government Act will establish a FOIA hotline service for all Federal agencies, and create a FOIA Ombudsman, which will provide a meaningful alternative to costly litigation.

Chairman WAXMAN wanted pay-go language to ensure that attorney's fees that are awarded in FOIA litigation are paid for with annually appropriated agency funds, and that has been included in this bill.

This is an important milestone. The Open Government Act contains reforms that ensure FOIA is reinvigorated for future generations. I don't intend to give up after this effort, of course. We will continue to work with our oversight. We will continue to pursue efforts on FOIA. But what we have said is that no matter who is the next President, they will have to run a Government that is more open than it has been in the past, and all 300 million Americans will have a better chance to know what happens in their Government.

This is a great step forward for the access of a free press, and for an honest and open Government in this country.

Mr. President, I yield such time as the Senator from Washington State may need of the time I have. I yield 10 minutes to the Senator from Washington State.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, as chairman of the Transportation, Housing, and Urban Development Subcommittee, I have mixed feelings as I rise to talk about the transportation and housing division of this Omnibus appropriations bill.

This bill is the result of a lot of hard work, and there is a lot to be proud of. At the same time, I regret that over the last month, we have had to strip some \$2.1 billion in resources from it. As all of us know, the Omnibus bill before us has a total cost that is slightly higher than the levels requested by President Bush, and much of the press coverage surrounding this bill has highlighted the fact that we have shrunk this bill down to the levels that

were requested by the President. But when it comes to the transportation and housing division of this bill, I wish to make it clear to my colleagues that the budget reflected in this bill is not the President's budget. Instead, this bill makes great strides in rejecting President Bush's hardest and harshest cuts in transportation and housing, and it includes critical initiatives that are new that will make important improvements to transportation safety.

I am proud of what this bill accomplishes. It provides funding to hire and train new air traffic controllers, and it rejects the President's efforts to cut funding to modernize the air traffic control system. It responds to our need to address crumbling infrastructure, especially our Nation's highway bridges, and it responds to the worsening congestion our families experience on our highways and our runways.

This bill rejects the efforts by the administration to slash funding that would ease congestion at our airports. It rejects his efforts to push Amtrak into bankruptcy and leave millions of Americans stranded on the platform. And it rejects his attempt to walk away from the needs of millions of Americans who depend on the Federal Government to keep a roof over their heads, including our elderly and our disabled.

Finally, this bill reaches a helping hand to the millions of families who are worried at this holiday season about whether they will be able to keep their homes in the coming year. Millions of people are facing foreclosure on their homes in the coming months as mortgage payments are rising out of control. There are communities in this country where every third home or even every other home is being abandoned by homeowners who cannot make their payments.

This bill addresses that crisis by targeting almost a quarter of a billion dollars to ensure that our families get the counseling they need. This kind of housing counseling can make all the difference for homeowners who are struggling to make payments and to keep their homes. The amount this bill provides for housing counseling is more than 4½ times the level that was asked for by President Bush.

Earlier this year, my very able partner Senator BOND and I held numerous hearings on the most important transportation and housing challenges that face this Nation. Together we negotiated every line of a very complicated spending bill with each other and then with our colleagues in the House. We were able to put together an appropriations bill that was reported, in fact, unanimously by our committee and passed the Senate with 88 votes. We then negotiated a conference agreement that earned the signature of every single conferee on both sides of the aisle on both sides of the Capitol. So we produced a truly bicameral, bipartisan bill.

Unfortunately, even though House Democrats, House Republicans, Senate

Democrats, and Senate Republicans were agreed on a balanced package that did address our transportation and housing needs, the one person who did not agree with us was President Bush. Because of that, we are blocked from sending our Transportation bipartisan bill to his desk for a veto.

Since that time, we have had a couple of very difficult negotiations and, as a result, we have had to strip almost \$2.1 billion of funding out of our part of the bill. There are real consequences to those additional cuts on which the President insisted. Transit riders across the country are going to ride in outdated buses because there is not enough money to replace them. Construction of new light rail systems in some of our most congested cities is going to be slow. Discretionary highway programs have been stripped of the dollars that would have been available for national competitions.

Because of the President's demands, we were required to cut matching funds that we were sending to the States to support expanded passenger rail service. We reduced the initial commitment made by our conferees to expand the number of family unification vouchers. That is a program that provides the necessary housing assistance so foster children and their struggling parents can be reunited in a stable household.

We were required to slow the release of a satellite navigation throughout our national aerospace.

As I said, I have mixed feelings about this bill. We were dealt a very difficult hand by the President's budget demands, and in order to live within those constraints and move forward, we had to make some difficult cuts, and those cuts mean we have had to put off important investments in transit, in highways, and in community development, among many other areas.

Still, I appreciate the work of my colleagues to ensure that this bill rejects the President's worst transportation and housing cuts. Instead, this bill responds to the most critical needs in transportation and housing and makes sure our broken bridges and highways get repaired, that our crowded airports are safe, Amtrak is protected from bankruptcy, and we are protecting our most vulnerable citizens from homelessness.

Finally, I do want to spend a couple minutes on a related subject. In the last few days, the Appropriations and Finance Committees were able to reach an agreement on the way FAA funding will be made available in the future. I am letting my colleagues know, this past fiscal year was supposed to be the year Congress finished important legislation to reauthorize our Federal aviation programs. That included the core authorizations for the operations of the FAA, as well as the agency's procurement budget, research budget, and Federal grant program that are used to improve and expand our Nation's airports.

I regret Congress was not able to make more progress on the legislation

this year, but thankfully this appropriations bill now includes a number of important authorities and funding that will keep the FAA functioning and keep the airport and airway trust fund solvent.

This conference agreement extends the current aviation excise taxes until the end of February, and it includes provisions to extend the existing war insurance risk program, as well as third-party liability protections.

The bill also includes funding that rejects the President's proposed cuts to essential air service which guarantees air service to a lot of our rural communities, something about which many of us care. And it rejects the President's proposed cuts to our effort to modernize the air traffic control system and invest in airport infrastructure.

Congress has not been able to finish the FAA reauthorization process in part because of the disagreements among the Senate committees about what their role is in overseeing and funding FAA programs. There are also disagreements about what type and mix of taxes and fees are supposed to be used to fund the FAA. But I am pleased to report that we have now successfully worked through one of those disagreements. Over the last 2 days, the two committees have come to an understanding about how funding for FAA programs will be moving forward.

I ask unanimous consent to have printed in the RECORD the exchange of letters between the leadership of the two committees.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, September 20, 2007.

Hon. MAX BAUCUS,
Chairman, Committee on Finance,
U.S. Senate, Washington DC.
Hon. CHARLES GRASSLEY,
Ranking Member, Committee on Finance,
U.S. Senate, Washington DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER GRASSLEY: We understand that your Committee will convene this afternoon to mark-up the "American Infrastructure Investment And Improvement Act." We write to express our great concern regarding provisions of your draft legislation that would create a new mandatory funding mechanism for the modernization of the FAA's air traffic control system. According to documents distributed by your Committee, your proposal would exempt certain modernization funds from the annual appropriations process and the oversight of our Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies. In our view, such an action would be inappropriate and detrimental to the Congress's ability to review and control FAA spending.

The Committee on Appropriations shares your goal for the modernization of our air traffic control infrastructure with a next-generation system. Indeed, this year, as in past years, our Committee has directed resources to the development of this next generation system beyond the levels sought in the FAA's own budget request. At the same time, however, our Committee has gone to great lengths to highlight and control wasteful programs where the FAA has encountered

dramatic cost overruns for systems that are delivering fewer improvements than were originally promised to our Committee and the taxpayer. Unfortunately, such instances are not a rare occurrence at the FAA.

As is discussed in our Committee report accompanying the Transportation Appropriations Act for 2008, fully 25 percent of the FAA's 37 major procurement projects have encountered schedule delays or substantial cost overruns since their initial contracts were signed. Since 2001, the accumulated schedule delays for these programs now exceed 296 months and the associated costs to the taxpayers have grown by almost \$1.7 billion. When you compare the performance of these programs to the FAA's estimates at each program's inception, accumulated delays now approach 400 months and cost growth exceeds \$5 billion. Innumerable audits by the DOT Inspector General and Government Accountability Office make clear that, while improvements are being made in the FAA's procurement processes, the agency still has a very long way to go before the Congress and the taxpayer can be assured that funding for a next generation system will be spent wisely.

Our Committee is committed to providing that funding but is equally committed to overseeing the agency's efforts to ensure that such funding isn't wasted. Given the FAA's record, we do not see any merit in putting any part of the FAA modernization budget on "automatic pilot" and substituting our Committee's oversight role with that of an unelected "Modernization Board" that is not answerable to the taxpayers that are bearing the agency's costs. We believe that efforts to exempt any part of the FAA's funding from annual Appropriations Committee oversight is particularly unwise and potentially wasteful. We strongly oppose such efforts and ask that you revise these provisions before the bill is brought before the Full Senate for debate.

We look forward to working with you this year and in the years ahead to launch a modernized air traffic control system in a manner that is both accountable and affordable.

Sincerely,

ROBERT C. BYRD,
Chairman.

PATTY MURRAY,
Chairman, Subcommittee on Transportation, Housing and Urban Development, and Related Agencies.

THAD COCHRAN,
Ranking Member.

CHRISTOPHER S. BOND,
Ranking Member, Subcommittee on Transportation, Housing and Urban Development, and Related Agencies.

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, DC, December 11, 2007.

Senator PATTY MURRAY,
Russell Senate Office Building,
Washington, DC.

Senator KIT BOND,
Russell Senate Office Building,
Washington, DC.

Senator THAD COCHRAN,
Dirksen Senate Building,
Washington, DC.

Senator ROBERT C. BYRD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATORS BYRD, COCHRAN, MURRAY, AND BOND: We are in receipt of your letter dated September 20th, 2007, in which you cite

your collective concern regarding provisions in the American Infrastructure Investment and Improvement Act that relate to the manner in which tax revenues authorized in the Act are provided to the Federal Aviation Administration for its procurement needs. We all share the same interest in modernizing our air traffic control system as quickly and efficiently as possible.

We appreciate your concerns regarding the role of un-elected entities in developing Federal policy, and we believe strongly that Congress should retain its constitutional authority to raise revenue and appropriate funding.

In your letter, you voice your concern that our bill, as drafted, might result in the FAA receiving annual mandatory funding outside of your Committee's control. You also voice concern that provisions of our bill could result in an external un-elected board, rather than Congress, having the authority to make Federal funding allocations to specific FAA procurements.

In order to eliminate any ambiguity regarding these matters, it will be our intention to immediately modify the text of our bill when it either reaches the Senate Floor or is incorporated into any other vehicle so as to ensure that these concerns are addressed. Specifically, the bill will be modified to ensure that no new mandatory funding will be provided to the FAA and that the Committee on Appropriations will continue to retain its current role of determining the final funding level for all programs, projects, and activities within the Federal Aviation Administration through annual and supplemental appropriations acts.

Our national aviation enterprise faces a great many challenges in the years ahead as air traffic continues to grow faster than available capacity. Our Committee is committed to working as a partner with your Committee to ensure that we establish and maintain the safe and efficient state-of-the-art air traffic control system that the American taxpayers want and deserve.

MAX BAUCUS.

CHUCK GRASSLEY.

Mrs. MURRAY. Mr. President, the final paragraph of the letter our Appropriations Committee received from Chairman BAUCUS and Ranking Member GRASSLEY of the Finance Committee states that they look forward to working with our Appropriations Committee as partners in advancing the needs of our aviation system.

As one member of the subcommittee that oversees aviation funding, I express my strong interest in working as a partner with both committees to come up with a bill that fully addresses the future needs of our national aviation system. I hope that important effort will be one of the Senate's first priorities when we reconvene next year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

MEDICARE, MEDICAID, AND SCHIP EXTENSION ACT OF 2007

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration S. 2499, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2499) to amend titles XVIII, XIX, and XXI of the Social Security Act to extend provisions under the Medicare, Medicaid, and SCHIP programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, as we approach the end of 2007, one cannot help but look ahead and see that there are many challenges that await us in the second session of the 110th Congress, specially in addressing issues relating to health care. In 2008, we will need to take a serious look at many issues in the Medicare Program. Among them will be continuing to work on developing a solution for Medicare's flawed physician reimbursement system. As usual, I look forward to working with my partner on the Senate Finance Committee, chairman, Senator MAX BAUCUS, in our usual bipartisan way to address this and many other issues.

However, before we could adjourn this first session and go home to enjoy the holidays with our families, there was still urgent work to finish. That was the purpose of this exercise. In the legislation we considered today, there were several provisions that rise to the level of "must do's." These included ensuring that physicians do not receive a drastic cut in their Medicare reimbursement and extending a number of expiring provisions including the State Children's Health Insurance Program.

Ensuring health care access to my constituents is a top priority of mine and the possibility of a negative update for physicians was of great concern to me as well as to doctors and patients in Iowa and elsewhere. When discussions began to solve this problem I was in favor of a 2-year update. I know that several of my colleagues were as well. But in continuing negotiations with the House and Senate colleagues it became apparent that a 2-year fix was not possible.

I wanted to do more. I know Senator BAUCUS wanted to do more. We were unable to reach consensus even on the Republican side either and, therefore, the Finance Committee was unable to move ahead with the legislation that Senator BAUCUS and I had been developing. Unfortunately, for a variety of complex reasons, we are now here with a much more limited package. This is a disappointment for many of us. So the purpose of moving forward with a 6-month package now is to provide the opportunity for the Finance Committee to address these priorities next year.

One of my first priorities has been to ensure access to rural hospital services. Since hospitals are often not only the sole provider of health care in rural areas, but also significant employers and purchasers in the community, it is especially important that they are able to keep their doors open. One group of hospitals that I am especially concerned about are "tweener" hospitals, which are too large to be critical access hospitals, but too small to be fi-

nancially viable under the Medicare hospital prospective payment systems. The struggles these facilities face in Iowa are real and serious. I am very disappointed we were not able to help these hospitals in this package. I look forward to working with Senator BAUCUS and other Members to include "tweener" hospital improvements in next year's package.

Second, we must address the problem of specialty hospitals. I have been an outspoken advocate against these facilities for several years now. My primary concern with these facilities is the inherent conflict of interest that exists when physicians have an ownership interest in the facilities to which they refer patients. The best interest of the patient should always be the deciding factor when a referral for treatment is made, not the financial self-interest of the doctor who is treating the patient. I strongly support a competitive marketplace and free market forces, but not at the expense of decreasing access to health care for the poor and uninsured or decreasing the quality of care for and safety of patients. I have been and remain concerned about the ability of community hospitals to provide care to all patients. I also look forward to working with Senator BAUCUS on addressing this issue in our package next year.

There are a number of other important issues that need to be addressed as well. We need to take on the reforms of the Medicare Quality Improvement Organization Program, we need to inject some sunshine into the payments that drug companies make to doctors, and we also need to make sure that Medicare is part of the solution when it comes to greater use of electronic prescribing and electronic health records.

In the meantime, we have this package with the following provisions that extend a number of Medicare, Medicaid and SCHIP provisions.

This legislation prevents the 10.1 percent cut to physician payment that would have occurred as of January 1, 2008, and instead gives a 6-month 0.5 percent update for physicians through June 30, 2008. In effect, this provides a 10.5 percent increase in physician fees from what they would otherwise have received beginning in January under current law. While this is not what many of us had in mind when we began this process, providing an update through next June will allow more time and the opportunity for a bill to fully go through the legislative process beginning with a committee markup next year.

This legislation also continues to provide additional payment incentives for physicians and other health care practitioners who report quality measures in the Physician Quality Reporting System. We must ensure that health care providers can afford to continue to practice medicine. We must also ensure that beneficiaries have access to physicians and other health care providers. And we must provide incentives for quality improvement.