

United States Senate
WASHINGTON, DC 20510

January 4, 2011

The Honorable Robert M. Gates
Secretary of Defense
The Pentagon
Room 3E880
Washington, DC 20301-1000

Dear Secretary Gates:

We write to you to express our deep concern over the future of the F136 alternate engine program for the F-35 Joint Strike Fighter. We have learned that the General Electric/Rolls Royce team responsible for the development of the alternate engine still has not received fiscal year 2011 funds from the Department of Defense. Fiscal year 2010 funds appropriated for the program will run out on Friday, January 7.

While we may have different opinions about the value of the alternate engine program, it was the clear intent of Congress to see that funding for the alternate engine program continues through March 4, 2011. The Director of the Office of Management and Budget concurred in this interpretation of the law in a letter he sent to Senator Sherrod Brown late last year.

We respect your leadership and assume that the delay of releasing fiscal year 2011 funds is simply an issue of timing or an oversight by the program office rather than a deliberate attempt to shift appropriated funds away from the alternate engine. If the Defense Department is planning to ignore Congressional intent, we hope that this course will be reconsidered. Subverting the expressed will of the Congress would be a stunning act of bad faith. Such an act would constitute an unambiguous attack on the separation of powers that has been the hallmark of American democracy since the founding of the Republic.

We ask that you respond to this letter and apprise us as to whether you plan to fund the alternate engine as required under the Continuing Resolution or whether you plan on taking another course of action. In addition, if you believe that Director Lew is incorrect and that you have the authority to bypass congressional intent, we ask that you apprise us of the basis of that belief. We thank you for your dedicated service to this country. We appreciate your prompt attention to this letter and a response to its contents before fiscal year 2010 funds run out on Friday.

Sincerely,



PATRICK LEAHY
United States Senator



JOHN F. KERRY
United States Senator



SHERROD BROWN
United States Senator