

and it brings in about \$20 billion. Where is the President's promise that he would not raise taxes on individuals who make under \$250,000 a year? Well, it is nonexistent. Last week, this was made clear during the Finance Committee markup. When asked about the effect of this individual mandate tax on the middle class, the chief of staff for the Joint Committee on Taxation responded:

We would expect that some people paying would make less than \$250,000.

For hard-working families, the individual mandates will load them up with a fancy benefit plan covering services they may not want or need. They will be required to buy it or their government will penalize them.

This is a complex and a fundamental shift in how we approach health care in our great country, indeed, in how much the government dictates the health care decisions of each and every American.

Furthermore, this legislation raises money by taxing insurance companies, medical device manufacturers, and prescription drug manufacturers. Does anybody doubt for a minute that will be passed on to the average guy? There is little doubt that these increased taxes will lead to higher premiums, more expensive medical equipment, and higher drug prices for Americans. These industries will compensate for the added tax by raising prices, ultimately raising the cost of health care in this country.

Additionally, this plan is likely to decrease research and development in the health care sector, which has been a major driver of innovation and improvement in health care quality. Creating policy that decreases the quality of our health care makes no sense. It is counterproductive. Requiring employers to provide health insurance to their employees or be fined or taxed does not make sense. The Finance Committee proposal is expected to collect \$27 billion worth of those fines or taxes. In tough economic times, with unemployment almost in double digits and forecasts to go into double digits, putting more requirements and mandates on job creators and job sustainers is counterproductive. Employers will think twice about hiring more workers.

There is little doubt that these increased taxes will lead to higher insurance premiums, more expensive medical equipment, and higher drug prices for Americans. These industries will compensate by raising their prices. They simply will.

I fear low-income Americans will suffer the most. They need those jobs. We must carefully evaluate the details of this legislation and ensure that our attempts to make things better, which I believe we can do in a bipartisan way, do not ultimately make things worse. I suggest that in tough economic times, creating legislation that increases the cost of health care, that raises taxes is not true health care reform.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

MAJORITY PARTY MEMBERSHIP ON CERTAIN COMMITTEES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 290.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 290) to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen.

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

Mr. REID. Mr. President, with the filling of Senator Kennedy's seat by the State of Massachusetts, we are now rearranging the committees. Some have been vacant since his death.

I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 290) was agreed to, as follows:

S. RES. 290

Resolved, That the following shall constitute the majority party's membership on the following committees for the One Hundred Eleventh Congress, or until their successors are chosen:

COMMITTEE ON ARMED SERVICES: Mr. Levin (Chairman), Mr. Byrd, Mr. Lieberman, Mr. Reed, Mr. Akaka, Mr. Nelson (Florida), Mr. Nelson (Nebraska), Mr. Bayh, Mr. Webb, Mrs. McCaskill, Mr. Udall (Colorado), Mrs. Hagan, Mr. Begich, Mr. Burr, and Mr. Kirk.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS: Mr. Harkin (Chairman), Mr. Dodd, Ms. Mikulski, Mr. Bingaman, Mrs. Murray, Mr. Reed, Mr. Sanders, Mr. Brown, Mr. Casey, Mrs. Hagan, Mr. Merkley, Mr. Franken, and Mr. Bennet.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS: Mr. Lieberman (Chairman), Mr. Levin, Mr. Akaka, Mr. Carper, Mr. Pryor, Ms. Landrieu, Mrs. McCaskill, Mr. Tester, Mr. Burr, and Mr. Kirk.

JOINT ECONOMIC COMMITTEE: Mr. Schumer (Vice Chairman), Mr. Bingaman, Ms. Klobuchar, Mr. Casey, Mr. Webb, and Mr. Warner.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010—Continued

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, as the Senate realizes the business today is the administration's fiscal year 2010 Defense budget proposal, our Committee on Appropriations, as everyone knows, in the regular order, had hearings and took advantage of advice from testimony and suggestions received by other Senators on and off the committee about the provisions of this important legislation. It sets out, as the Senate appreciates, the funding that will be permitted by the Department of

Defense for the next fiscal year. So the subject we have today before us is specifically an issue involving a funding provision in the administration's fiscal year 2010 Defense budget proposal.

The administration proposed several funding cuts for weapons programs they deemed unneeded. The Senate Appropriations Committee, in its hearings and in its deliberations, reviewed each of the proposals and generally agreed with the recommendations set forth in the administration's budget submittal.

This bill does not include additional funding for F-22 aircraft, the Presidential helicopter, the Joint Strike Fighter alternate engine, the combat search and rescue helicopter, the Kinetic Energy Interceptor, and several other programs which were proposed for funding cuts by this administration.

The C-17 aircraft is an area where we did not agree. The committee proposed \$2.5 billion be included in the bill for 10 additional aircraft. As we all know, the Defense Department is not infallible. It was wrong and overruled by Congress when it recommended program terminations of the F-117 stealth fighter and the V-22 Osprey.

The C-17 is the current backbone of our strategic airlift capability, and it will be for decades to come. C-17s are being utilized all over the world at a much faster pace than previously anticipated. While they comprise only 60 percent of the Air Force's strategic airlift fleet, they are flying 80 percent of all worldwide strategic airlift missions.

This demand for C-17 lift capability is only going to grow as new airlift missions emerge. Other missions we know about already are rapid deployment of theater missile defenses, counterinsurgency operations, as well as growing airlift demands for an expanding Army and Marine Corps.

Failure to fund the C-17 will result in the United States shutting down its airlift manufacturing base at a time when the demand for airlift is likely to grow. Allowing the C-17 supply base and production line to shut down and then trying to reconstitute it would cost billions of dollars and take years to accomplish.

The Quadrennial Defense Review and the upcoming Mobility Capability and Requirements Study are reassessing our strategic airlift requirements. Until those requirements are reevaluated, the C-17s should be included in this bill. The Air Force Chief of Staff has stated that he believes 205 C-17s and 111 C-5s are needed to meet strategic airlift requirements and that procuring more than the 205 C-17s already purchased should involve a light reduction and retirement of C-5A aircraft.

Prior to enactment of the fiscal year 2009 Supplemental Appropriations Act in June of this year, the Air Force was prohibited from retiring the older and less capable C-5As. Now that the Department has authority to retire these aircraft, we should replace a number of

them with a highly capable aircraft in production today. The Government Accountability Office has concluded:

It will take seven fully modernized C-5s at a cost of \$132 million each to attain the equivalent capability achieved from buying one additional C-17 at a cost of \$276 million.

In other words, it would cost \$924 million to modernize seven C-5s to get the same capability of one C-17 costing \$276 million.

Based on the growing airlift needs and the new authority to retire the aging and hard-to-maintain C-5 aircraft, we added the \$2.5 billion to sustain production of the C-17 program for 1 additional year. This additional year will give the Department of Defense time to complete its airlift reviews and preserve the option of adding to our strategic airlift fleet.

If funding for C-17s is eliminated in this bill and the ongoing studies determine additional airlift is needed, at best there will be significant cost increases and delays in getting the aircraft to the fleet; at worst, it will be cost prohibitive to restart the line and our service men and women will be denied equipment needed to perform their missions. That would be totally unacceptable, and I urge a "no" vote on the McCain amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, the statement I am about to present may appear a bit redundant after listening to the great statement of the senior Senator from Mississippi, vice chairman of this committee. But as chairman of this committee, I want to, by this redundancy, emphasize that Senator COCHRAN and I work as a team, and we agree with the provisions in this measure. For the interest of this body, it should be noted that this measure was passed and presented to the Senate by a vote of 30 to zero—unanimous. A \$636 billion bill coming out of the committee, after due consideration, unanimously is historic.

The amendment of the Senator from Arizona seeks to eliminate funds provided in this bill to sustain the C-17 program. As I indicated, Vice Chairman COCHRAN and I proposed, and the committee accepted, our recommendation to relocate \$2.5 billion to procure an additional 10 C-17 aircraft. If approved, this will bring the total C-17 inventory to 223 aircraft. We believe this is a critical investment which will support our national security strategy and add much to the needed airlift capability.

There are three main reasons the committee supported adding funding for the C-17:

First, as everyone in the military, from senior leadership to the soldiers being transported, will agree, it is, simply put, a superb aircraft. The C-17 represents the finest in military technology. It is efficient, cost-effective, and highly capable. In short, it has no detractors.

Second, we believe the facts now show that additional aircraft are need-

ed to meet military requirements despite that it is being recommended by the Pentagon for cancellation.

Third, the C-17 embodies the only strategic airlift production program in our Nation. As the Senator from Missouri pointed out, there is nothing on the planning ledger to replace it. If we cut off the production at this moment, it will be unaffordable to restart this program.

The C-17 provides the U.S. military with the essential flexibility to respond on short notice—and I emphasize short notice—anywhere in the world. Our air fleet assets are a major enabler of strategy and operational plans. There is not a military scenario in existence today which can be put into effect without a strong airlift fleet. The C-17 was designed specifically to meet virtually all of the needs of our warfighters. It is the only airlift aircraft that has the ability to fly both great distances and to land on austere airfields anywhere in the world. That is very important because we don't have long runways prepared for us in far-off countries. When teamed with the tactical C-130 and the C-5, the C-17 fleet provides the Nation with the capability to deliver outsized cargo to our forces wherever they may be located.

We believe the C-17 is today the finest airlift aircraft in the U.S. arsenal. With its new avionics and structures, it can maintain a very high mission capability rate. This is a term used by the Air Force to denote the aircraft's ability to perform. Comparative data filed by the Government Accountability Office in November 2008 showed that the C-17 was able to successfully perform its mission in excess of 85 percent of the time. And I think we should note that—85 percent of the time, they are able to perform their mission. On the other hand, the aging C-5 was only able to meet its performance demands 58 percent of the time. For our men and women in uniform, what this means is that if they are depending on a C-5, their needs will be only addressed a little more than half the time, while a C-17 will meet their needs more than 8 times out of 10.

In addition, the C-17 is much cheaper to operate than the C-5. It is true that a C-5 has the capacity to carry more cargo, but in the actual usage by the Air Force, the cost per flying hour of the C-17 is only 40 percent of the cost of the C-5. The Air Force has informed us that today its current statistics show that it costs \$6.42 to fly 1 pound of cargo from South Carolina to Baghdad on a C-17—that is \$6.42 from South Carolina to Baghdad—but \$13.76 to fly the same item on a C-5. Why? Because the C-5 is unreliable, because we rarely need to fill either plane to its maximum capacity on an average mission, and because the C-17 is newer and modernized in comparison to the C-5. We simply cannot rely on the older, outdated C-5.

Opponents might argue that when we modernize the C-5 it will be able to

overcome many of these problems. I would concur that a modernized C-5 will be a far better aircraft. However, I would point out that the C-5 Modernization Program has been plagued with delays and cost overruns. Because of the high cost of the C-5 Modernization Program, the Defense Department decided that it could no longer afford to modernize all 111 C-5s and it cut the program to 52. That means our military will be dependent on 59 of the old and often broken C-5s that cost twice as much to operate as the C-17 for the foreseeable future. That is 47 percent of the C-5 fleet that won't be updated and will be unable to operate efficiently to meet our military needs.

The Government Accountability Office noted that additional investments in the C-17 may be attractive. It calculated that the Defense Department would need to modernize, as Senator COCHRAN pointed out, seven C-5s—to modernize seven C-5s—to get the equivalent capability gained from acquiring one C-17. It is going to take seven C-5s to do the work of one C-17, but it would cost three times as much to modernize the seven C-5s as it would to purchase one C-17.

I would like to point out that the C-17 is a fully matured program with stable costs and little uncertainty, while the C-5 Modernization Program is still in its infancy. If there is one thing we know about Defense programs, it is that new program costs generally increase during their early years.

Some may address the Senate and say we don't need any more C-17s. They note that today the Air Force now says we only need the 213 we already have purchased. I would like to point out that in 2002 the commander of the U.S. Transportation Command testified that his C-17 requirement was for 222 C-17s. Moreover, the 2005 Mobility Capabilities Study also raises questions about how many aircraft are required. This study, which is supposed to be the basis of our strategic airlift capability requirements, identified the need for between 292 and 383 strategic airlift aircraft, a combination of C-17s and modernized C-5s. In the force today, we have 111 C-5s and 205 C-17s—a total of 315 aircraft—near the bottom of the requirement level. But that doesn't tell the whole story.

In the last Quadrennial Defense Review in 2006, the Defense Department opted to keep its total inventory near the bottom of this requirement range with 180 C-17s and 112 C-5s.

Although we have added C-17s since that time and lost one C-5, the more important fact is that the QDR based this recommendation on a plan to modernize all 112 C-5s. With the plan to only modernize 52 C-5s, the airlift capability of the fleet is drastically diminished.

In 2008, the commander of the Air Force Air Mobility Command expressed his concern with this plan. He testified that the plan with 52 modernized C-5s and 205 C-17s will not provide the strategic airlift that he required.

I would also note that these earlier studies did not take into account today's force structure. That is a very important point. Since the mobility study and the QDR were completed we have transformed our Army creating additional combat capability that requires lift. We have increased the end strength of our Marine Corps, and we have created the U.S. Africa command. All of these have increased our airlift needs.

At the same time, operations in Iraq and Afghanistan are aging our airlift fleet beyond anticipated rates. We are flying the wings off our C-17 fleet. In November, 2007, the Air Force Chief of Staff recommended buying an additional 44 C-17s to meet the required force level. On the 2009 Unfunded Requirements List the Air Force asked for an additional 15 C-17 aircraft with a stated inventory objective of 248 C-17s. Our military leaders have called for additional aircraft, our forces have grown since our last studies were written and our plans have been altered to cut back on our modernization program.

It seems to me that notwithstanding the plan offered by the Defense Department, the country has a choice—we can either agree to modernize all the C-5s or we can continue to procure additional C-17s. As noted earlier, as the GAO discovered a new C-17 offers greater capability at a lower price. To me and to many of my colleagues this just makes sense.

Unless we act this year and approve the recommendation from the Appropriations Committee, we won't have a choice. Without the funds in this bill the C-17 program will begin to shut down. I say to my colleagues this is a critical decision and we have to be certain on our course. As the GAO noted, "careful planning is needed to ensure C-17 production is not ended prematurely . . . Restarting production would not be feasible or cost effective." That is the GAO.

Earlier this decade, on several occasions the Defense Department urged the Congress to allow it to begin to retire the oldest and least capable C-5s. It too believed that purchasing additional C-17s was a far superior choice to meet our airlift needs. However, each year the Congress refused to allow DoD to retire any C-5s. Eventually, the Pentagon gave up trying and decided it would be stuck with the old unreliable C-5s. While it originally sought to upgrade all the old C-5s to at least make the best of a bad situation, the cost overruns and delays in the C-5 modernization program made that decision unaffordable. I would point out that the Congress rectified this problem this year in the supplemental and allowed the Air Force to begin to retire these aged aircraft. We know that it makes economical sense to retire these poorly performing aircraft and to replace them with new C-17s. We are looking forward to the Air Force revisiting this issue in the fiscal year 2011 budget with a renewed plan to retire the older C-5s

and hopefully a desire to replace them with new C-17s.

In this year's budget the Secretary of Defense has made some tough decisions. He has opted to kill the F-22, the JSF second engine, the VH-71 Presidential helicopter, the combat search and rescue helicopter and the kinetic energy interceptor. In the bill before the Senate we have supported each of these recommendations. I will be candid that I am not confident that each of these recommendations is in our Nation's interest, but in general I support the Secretary's plans.

There is only one program that the vice chairman and I felt strongly enough about to reverse the recommendation of the Secretary, the C-17.

I have explained at some length why, it is cost effective, it is capable, and it is needed. I urge all my colleagues to reject the amendment of the Senator from Arizona and to vote to support the continuation of the C-17 program.

It is in our Nation's interest.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

AMENDMENT NO. 2484

Mr. JOHANNIS. Mr. President, I ask the current amendment be set aside and we call up amendment No. 2484.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. JOHANNIS] proposes an amendment numbered 2484.

Mr. JOHANNIS. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: Prohibiting use of funds to fund the Association of Community Organizations for Reform Now (ACORN))

On page 263, between lines 10 and 11, insert the following:

SEC. 9. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

Mr. JOHANNIS. Mr. President, I rise to present amendment No. 2484. Actually, this is an amendment we have acted on in previous appropriations bills. In fact, this is the amendment that deals with no funding for the organization ACORN.

In the previous Interior bill this passed in a very bipartisan way with a 85-to-11 vote; in the Housing and Transportation bill, again a very bipartisan vote, 83 to 7.

This is an amendment that has overwhelming support of this body. My

comments relative to this organization are a matter of the record. I do not feel a need to lay those out again, but I want to present this amendment on this appropriations bill and we have reached an understanding that this can be accepted by voice vote. I want to indicate that will be acceptable to me.

Mr. INOUE. The Senator is correct.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2484) was agreed to.

Mr. JOHANNIS. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUE. 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. INOUE. Mr. President, the pending business before the Senate is the DOD appropriations bill for fiscal year 2010. This measure contains approximately \$636 billion, including nearly \$130 billion to continue the fight against terrorism in Afghanistan and all around Southwest Asia.

It contains funds to pay our men and women in uniform, as well as funds to operate our forces and to take care of our wounded. It provides the money required to equip the warfighters and to develop new weapons systems so that they may be protected in the future.

Today is September 29. The fiscal year ends tomorrow. I believe all of us should know that. On Thursday, the Department of Defense will begin to operate on a continuing resolution, a stopgap measure required because the Congress has not completed action on its 12 appropriations measures.

I want to point out that the Appropriations Committee reported its first fiscal year 2010 bill in the Senate on June 18, more than 3 months ago, and this last bill on September 10, nearly 3 weeks ago. All of the other bills were reported before the August recess.

However, because of the scheduling problems we have had, this Senate has passed just six bills. We have spent the better part of 7 weeks on the floor to pass these bills. I wish to note that in years past, most appropriations measures were taken up and passed by this body in 1 or 2 days. Now it is nearly 1 week on each bill. The Senate is known for being a deliberative body, but this is the third day the Senate has been on this important bill, and up until a few minutes ago, not a single amendment had yet to be offered.

Moreover, at this point, only eight amendments have been filed, and we have seen this pattern week after week. Our colleagues are waiting days before getting serious about these bills. The impact of these delays is that the end of the fiscal year is upon us, and

we are nearly only halfway done completing Senate action on our bills, and only one of the 12 bills has reported out of conference committee.

At this juncture, I wish to note that we have had 12 measures. Of the 12 subcommittees, 3 reported the bill to the Senate on a vote of 29 to 1—not quite unanimous, 29 to 1. The remaining nine subcommittee bills, after due deliberation, debate, and discussion, were passed on to the Senate. The Senate committee reported to this Senate with a recommendation that it be passed by a vote of 30 to 0.

This measure before us was adopted by the Appropriations Committee, made up of liberal members, conservative members, middle of the road and whatever you want, men, women, by a vote of 30 to 0.

In January, when I became chairman of this committee, it was apparent to me that the Senate and the legislative branch were losing control over the budget process. We had not passed all of our spending bills as freestanding measures since 2005. We only accomplished that feat once during the past decade.

In many cases, we have resorted to large omnibus bills to complete our work. The Senate has not been allowed to debate or amend many of the measures that were passed. This is no way to run the government.

Vice-Chairman COCHRAN and I agreed to put a stop to this practice. We vowed to pass 12 bills and to send them to the President individually. We have passed those 12 bills in a timely fashion and presented them to the Senate. Our leaders fully supported us in this plan.

I remind my colleagues that the entire Republican caucus sent a letter to the majority leader urging him to follow this approach. But when it came to putting this in practice, instead of working to get this accomplished, we have been hamstrung by slow progress on each and every bill.

We are well aware that Members have amendments they wish to have considered on this and other appropriations bills. We understand that and have been waiting to debate them. Senator COCHRAN and I came to the floor Thursday night but were told there was nothing to do. We came here on Friday morning with the same results. We are back this afternoon, and we have one amendment.

The go-slow approach that has been taken by a few of our colleagues has put us in a position in which the government must now begin to operate on a continuing resolution. What does that mean to our agencies? It means they must throw out their plans for operations and streamline activities so that only the most essential operations are funded. Continuing resolutions will continue programs that have expired and are no longer needed, and the new programs that will replace them will not be in place. It means they must delay purchases until they are sure the resources they are seeking will be approved.

In the case of the Defense Department, it means they have to delay starting new weapons development and procurement programs. Some of my fiscally conservative colleagues might applaud this, thinking it means they are cutting spending. But, unfortunately, they are wrong. In fact, we are only running up expenses, as we follow penny-wise, pound-foolish practices which cost more in the long run than they save.

Senate rules are written to protect the rights of the minority and to ensure that legislation is carefully reviewed. But it is also true that when time is of the essence, the deliberative process is frequently turned on its head and complex matters rushed through with no time to debate or opportunity to offer amendments. Rather than delay these bills, which have minimal controversy, leaving the body no choice but to adopt expedited procedures to complete action, let's proceed apace and get this and the other five bills through the Senate as quickly as possible because it is the responsibility of the Congress to ensure that taxpayer funds can be expended efficiently by passing each of these appropriations measures without depending on continuing resolutions or omnibus measures.

I urge all of my colleagues to work with us so we can complete our work, the work of this Nation.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. 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. DODD. Mr. President, I am going to take a few minutes to address the pending amendment, if I may. Then, at the conclusion of those remarks, I wish to speak as if in morning business for a few minutes to address another matter that will not be the subject of the pending legislation, if that is permissible.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, I rise in strong opposition to the amendment offered by my friend and colleague from Arizona that could wipe out a highly skilled American workforce. It would irreparably damage our combat readiness, deprive our troops in the field of critical resources and threaten our national security. Those are strong words, but that is what is involved if the amendment being offered by the Senator from Arizona is adopted.

I wish to introduce my colleagues to three workers at Pratt & Whitney in Middletown, CT. We see three individuals working on this engine. They are removing test equipment after completing testing on a powerful, cutting-

edge engine, preparing it for delivery to the U.S. Air Force. The man on the left is Doug. He has been working for Pratt & Whitney for 24 years. He is married with three children, 8-year-old twins and a 4-year-old.

The man in the middle is Steve. He spent 4 years in the Air Force before coming to Pratt & Whitney and boasts a quarter of a century in aviation experience. On the right is his coworker Michael, with 15 years of experience on the floor and 8 as a supervisor at this facility. If we effectively lay off these workers and the 30,000 Americans like them in 43 States who build the C-17, we will be causing tremendous pain and financial hardship at a time when our communities can least afford it.

In my home State of Connecticut—29th in total population, but 6th in total aerospace employment—we just received word that Pratt & Whitney is going to close maintenance facilities in Cheshire, CT, and East Hartford, CT, costing 1,000 jobs. If this amendment prevails, my State's largest private employer tells me that they will stand to lose another 3,000 jobs. That means the loss of decades of experience and expertise that has allowed us to maintain not parity with the world, but superiority, in the aerospace industry.

Perhaps my colleagues aren't persuaded by the imminent loss of thousands of jobs in my state or even their own. Perhaps some might be tempted to threaten the livelihoods of 30,000 people at a time when we can ill afford it. To them I say, think about these three individuals are doing for our troops.

According to the Air Force, over the last 3 years in the military's Central Command alone, the C-17 has flown more than 100,000 airlift sorties, moved more than 2 million personnel, delivered nearly 300,000 tons of cargo, and executed nearly 2,000 air drops. According to the Government Accountability Office, C-17s have delivered more than 2.4 million tons of cargo to Iraq and Afghanistan alone. That is 2.4 million tons of supplies—everything from critical gear to large vehicles—sustaining our troops on the battlefield.

The Government Accountability Office also notes that this aircraft has “drawn praise during combat operations”—listen to this—with an 86-percent readiness rate, compared to the 53-percent readiness rate of the 40-year-old C-5 fleet that shares the cargo lift mission with the C-17s. The C-17 is the most reliable airlift plane in our arsenal, and it is also the most versatile. Unlike any other aircraft we have, the C-17 can complete combat, humanitarian, and other transport missions all over the world, thanks to its unique ability to take off and land in difficult environments, in remote airfields, or in situations where runways are shortened or degraded.

The Air Force reports that the C-17 is able to take off and land on 65 percent of the world's soils, whereas older airlift planes can only land on 6 percent.

This incredible versatility makes the C-17 vital to the success of counterinsurgency, humanitarian, and research missions the world over. It can operate not only in Iraq and Afghanistan, but in places such as Bosnia, Rwanda, Sudan, and even Antarctica.

But today I feel this versatility is taken for granted. Our commitments overseas, especially since 2001, have imposed far greater burdens on these aircraft than we had originally planned for.

The Congressional Research Service reports that the C-17 was designed to fly 1,000 hours per year, with an expected lifespan of 30 years. But as our overseas commitments have grown since 2001, the fleet has averaged 1,250 hours per aircraft and some have even reached 2,400 flying hours in a single year.

GEN Arthur Lichte, the Air Force's air mobility commander, has said that at this rate, the C-17s may have a lifespan as short as 22 years. When a mission-critical aircraft is due to retire 8 years earlier than intended, as this one may be, we who are charged with equipping our troops in the field must address our procurement plans and we must do it now. Some of our newest C-17s are already 15 years old.

I wish to remind my colleagues that last July the Senate voted 93 to 1 to authorize the expansion of the Army by 30,000 soldiers. I, along with nearly all of my colleagues, supported that increase to meet our growing security demands and relieve the combat burden on our already overstretched forces. When we took that vote, we incurred an obligation as well to provide those troops with the support they will need in order to do their jobs.

Chairman INOUE and the members of the Senate Appropriations Committee have demonstrated incredible foresight by acting quickly to prevent these future shortfalls in this very important fleet. If this amendment to undo their good work prevails, we are doing a disservice to our troops. We are also doing a great disservice to our taxpayers.

The author of this amendment has said we should kill the C-17 now and wait for a government study down the road to see whether we need more of these aircraft. Well, if we kill the C-17, we will lose our only wide-body assembly line in the United States. According to the Government Accountability Office, it will cost up to \$1 billion to restart the line when it inevitably dawns on us that we need additional military cargo planes to support our troops in the field. If we hand these three individuals and the 30,000 of their fellow workers around the country pink slips in the next few days, who do we think is going to build those planes down the road?

By the way, if we choose to try to make up the capability by extending the lives of the C-5As, we would need to overhaul and repair seven of them at a cost of nearly \$1 billion to equal the capability we would get from buying

just one additional C-17 at a cost of \$276 million.

This amendment would hurt our workers, our troops, and our national security. It is a massive expenditure disguised as a short-term savings. It is the very definition of cutting off our nose to spite our face when it comes to the critical needs of our troops in the field. Whatever views one may have on Afghanistan or Iraq, we want to make sure that our troops, wherever they are, receive the support they need.

Today, when the vote occurs, I urge my colleagues to support the committee and reject the amendment to cut out these critical aircraft.

With that, I ask unanimous consent to be allowed to move to a matter other than the one I just discussed as in morning business.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Is there objection?

Without objection, it is so ordered.

IRAN

Mr. DODD. Mr. President, it has been a tumultuous year in Iran.

The Iranian regime has continued to pursue its nuclear ambitions, fund terrorist activities throughout the Middle East, and repress its own people. The world watched this repression play out in the wake of this summer's illegitimate elections, when brave and peaceful protestors were violently attacked.

If Iran were to acquire nuclear weapons capability, it would pose a significant threat to peace and security in the Middle East, especially to our close ally Israel and others in the region.

For years, the Iranian regime has refused reasonable requests by the international community. And it has failed to meet its obligations under international nonproliferation rules.

That is a threat to both national security and global stability, and it cannot be allowed to stand unchallenged.

President Obama has undertaken an aggressive dual-track approach. He has offered high-level engagement with Tehran, but has matched that carrot with the stick of sustained pressure through economic sanctions. As the President has warned, Iran won't be allowed to run out the clock.

As chairman of the Senate Banking Committee, I intend to introduce legislation that will arm the administration with the ability to impose tough, targeted sanctions if Iran does not respond to our final diplomatic efforts in the coming weeks.

We must confront Iran's government with its long record of duplicity and deception on the issue of its nuclear facilities.

Last week, President Obama revealed that Iran is building a secret uranium enrichment facility in violation of international rules.

The President and our allies have rightly insisted that IAEA inspectors be allowed to access this facility promptly. And over the weekend, Iran moved forward on provocative missile tests.

In two days, the United States and our allies will begin key talks with

Iran's leaders. Unfortunately, Iran's President has already suggested that appropriate limits to his country's nuclear enrichment program are off the table.

Clearly, in light of this growing threat, there is cause for great concern and prompt action on our part.

But there is also cause for hope that Iran might be forced to change course. We have received renewed support from our allies. We have been encouraged by the strong international rejection of election abuses. And we have seen tensions within the Iranian regime begin to break into the open.

It is not too late for a proper resolution. But the road ahead is difficult. It will require sustained diplomatic effort to ensure all of our strategic partners—the Europeans, the Russians, the Chinese, the Indians and moderate Arab states throughout the Middle East join this effort.

We will only succeed if Iran is confronted by the prospect of sustained, progressively intensifying multilateral economic and diplomatic pressure on its government including tougher sanctions.

This week's negotiations should confront Iran's leaders with a clear choice: end its illegitimate efforts to enrich uranium, halt its proliferation efforts, and stop supporting terrorists around the world—or continue to deepen this regime's isolation, and ruin the Iranian economy.

The administration is right to attempt engagement with Iran even as we make clear that biting sanctions will follow if international demands for greater transparency continue to meet with stubborn refusal.

Administration officials have outlined to me a menu of additional tough multilateral sanctions that they are considering imposing. Congress must equip President Obama with a full range of tools to deal with the threats posed by Iran.

In the last Congress, the Banking Committee approved comprehensive legislation to impose tough new sanctions on the Iranian regime; authorize investors to divest from companies active in Iran's energy sector; and combat black-market networks spreading weapons around the world. Unfortunately, floor consideration was repeatedly blocked by a small minority.

Given the rising stakes, I intend to work with my committee colleagues, including Ranking Member Senator SHELBY, to press forward similar sanctions legislation in the next few weeks.

I want to congratulate Senators LIEBERMAN and BAYH for their leadership on this issue, including their legislation to impose further sanctions on entities involved in importing gasoline to Iran or in assisting Iran's efforts to expand its domestic refining capacity.

Iran's energy sector is a key source of revenue to the government—and Iran is especially susceptible because of its dependence on imported gasoline. I will integrate these critical provisions into the legislation.

Our legislation will be targeted and strategic, maximizing the economic leverage of the U.S., our partners and allies, and investors while avoiding the risks of a more indiscriminate approach.

The bill would also expand coverage under the Iran Sanctions Act to include financial institutions, underwriters, guarantors, and other business entities, and extend the applicability of sanctions to oil and gas pipelines and tankers.

It would impose a broad ban on direct imports from Iran to the U.S. and exports from the U.S. to Iran of those few items still able to be so shipped, emptying food and medicines.

It will strengthen existing authority to freeze the assets of Iranians active in weapons proliferation or terrorist activity, and make it clear that U.S. entities who establish a subsidiary to get around sanctions laws will be held liable for the activities of their subsidiaries.

Finally, it would impose new requirements that the President actually make a determination, and report every 6 months to Congress, regarding the sanctionability of eligible investments in Iran's energy sector.

In addition to expanding U.S. sanctions, the bill would also establish a simple formula authorizing divestment from firms which invest significant amounts in Iran's energy sector, with provisions patterned after the Sudan Accountability and Divestment Act enacted 2 years ago.

Many of us believe that Americans should be able to divest from energy firms doing business with the Iranian regime whose policies they abhor, and which indirectly help to prop up the regime.

They should be given the tools they need to make socially responsible decisions. And investors who choose to divest—States, large pension and mutual funds, and others should be held harmless for these decisions. Investing in Iran is risky business, and investors should be fully informed of those risks going in. The bill does not require divestment; it simply permits it.

Finally, this bill will provide incentives for countries to strengthen their export control systems to stop the illegal diversion of sensitive dual-use technology to countries like Iran, and impose tough new licensing requirements on those who refuse to cooperate.

As we confront the realities of a global marketplace, with manufacturers assembling parts of complex machinery such as aircraft and computers from a supply chain spanning the globe, and as regimes like Iran, North Korea, and Syria trawl various trans-shipment hubs for such parts to assemble high-tech weapons, it makes sense to address this problem head-on.

We have developed a way to do this, with an array of carrots and sticks to prod unwilling countries to get serious about developing and implementing tough, comprehensive export control rules and systems.

Our allies continue to work closely with the US to increase economic and diplomatic pressure on Iran.

I believe our legislation will complement and reinforce those ongoing diplomatic efforts, and send a clear signal to Iran's government of what's in store if they continue to flaunt the will of the international community.

Congress will be moving forward on the same timetable that the President and our allies have set for this fall, to underscore to Iran's leaders the huge price they will pay economically, politically, diplomatically, and otherwise if they do not change course.

The government of Iran must come clean on its nuclear program, which as President Obama observed last week represents a direct challenge to the basic foundation of the international nonproliferation regime. I hope my colleagues will join me in supporting efforts in the coming weeks to make clear to the Iranians that we in Congress stand with President Obama in our determination to confront this problem forcefully, and urgently, before it is too late.

Mr. President, we will have our hearing on October 6 in the Senate Banking Committee. My intention is to, shortly thereafter, a week or so, combine the proposals offered into one strong, comprehensive sanctions bill. I, as well as others, believe we should take no options off the table and that we understand the implications of the statement.

Most of us agree every effort ought to be made to resolve this matter short of the use of military force. Obviously, that option remains. I believe we are proposing a sanctions regime, along with the needed cooperation of other nations around the world, that will send an unequivocal message—and nothing would be more important at this hour than to send that clear united message from this body and the other body—of our determination to use all the tools available to us to bring about the desired change we seek.

By adopting this strong legislation, my hope is they will understand how serious we are in our determination to achieve the common goal sought by the administration and us in this body.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. CASEY. Mr. President, I rise with respect to Iran's nuclear program. I commend the Senator from Connecticut, chairman of the Banking Committee, for his presentation a few moments ago. Similar to so many Americans, we have learned a lot in the last couple days that is troubling.

The Iranian regime, discredited this summer by the deplorable repression of peaceful prodemocracy demonstrators

across the country, has reached a new low on the international stage. Again, I speak of the Iranian regime—the Government—and not the people of Iran. The disclosure of the uranium enrichment facility near the city of Qum should serve as a wakeup call for those who believed Iran's nuclear program was only for peaceful purposes. The regime continues to deceive the international community about its nuclear intentions and program development. It continues to threaten our ally Israel; it continues to disregard its international commitments; and, yes, the regime continues to directly threaten the national security interests of the United States.

As the administration begins talks on Thursday, we in the Senate should be prepared to do our part and pass tougher sanctions on the Iranian regime to compel its compliance with international standards. We have a responsibility to provide the administration with the tools it needs to maximize pressure on this increasingly intransigent Iranian regime.

I applaud the administration's approach to recalibrating U.S. engagement around the world. At a minimum, this international effort will restore America's long-held reputation of being an honest broker, of a country that values diplomacy and relationships with allies and welcomes new ones. Internationally, the United States is on a better footing than it has been in years. Ties with allies have been strengthened. Those on the fence, such as Russia and China, in this particular question, are showing signs of cooperation on issues that are critical to our national interests. Our adversaries, not sure how to demonize the United States such as they used to do, are on their heels. The administration's diplomatic offensive has put us into a position where we have a strong coalition going into these important discussions on Thursday.

The events of the last week are unfortunate evidence of the Iranian regime's deceit, defiance, and disregard for international standards for peace and security.

First, on Monday, the Iranian regime sent a letter to the IAEA disclosing the existence of the second enrichment and refining facility, a site that the United States and Israeli intelligence reportedly have tracked for years. This mis- sive denies that the site was intended for nuclear purposes, though the 3,000 centrifuges were clearly meant for weapons-grade refinement. Moreover, the site was buried deep underground and under protection by the elite Revolutionary Guard—not the typical protocol for a peaceful energy site.

On Wednesday, the Iranian President, Mr. Ahmadinejad, used his time on the rostrum at the United Nations not to welcome a new day of engagement with the international community but in typical fashion to rail against Israel. This desperate attempt to divert attention from his own internal political

problems, as well as his government's deceitful nuclear program, once again showed this regime is not a responsible actor on the world's stage. Iran's people recognized this last June by voting against Mr. Ahmadinejad and his brand of politics. The world witnessed on live television how Mr. Ahmadinejad viewed the democratic process as his people paid dearly for the audacity of their vote.

Finally, over the weekend, Iran's news service reported three rounds of missile tests, including those capable of hitting Israel. GEN Hossein Salami, head of the Revolutionary Guard Air Force, said the drills were meant to show that Tehran is prepared to crush any military threat from another country. This erratic display will actually weaken, not strengthen, Iran's hand in Geneva and will hopefully serve to convince our Russian and Chinese friends that the Iranian regime is not a credible actor nor a reliable trading partner.

After this disturbing but strangely predictable week of Iranian regime behavior, American negotiators will head to Geneva. This is the first official and direct meeting with Iranian negotiators in 30 years. Leading the American delegation is Ambassador Bill Burns, one of America's most respected diplomats. Having served in Russia, Ambassador Burns is well placed to address the complex international dimensions to this diplomatic problem. We will be well represented in Geneva, and I wish Ambassador Burns and his team all the best in what will surely be a challenging assignment.

Iran is not going into these negotiations on sure footing, while the international community has never been more united. Led by the United States, Britain, Germany, and France, opposition to Iran's nuclear program is based in fact, rooted in a willingness to engage, and backed up with a clear and firm message: An Iran with nuclear weapons is unacceptable under any circumstances. Let me repeat. An Iran with nuclear weapons is unacceptable under any circumstances.

This message is gaining stronger resonance with Russia and China. The Russian President's comments at the University of Pittsburgh last week indicated a willingness to consider sanctions. This is a potentially remarkable breakthrough because if the Russians are willing to support international sanctions, the Chinese could be left alone among the P5+1 group in that determination. While China relies on Iran for substantial fuel imports, I trust they are carefully weighing their need for energy against Iran's increasingly erratic and irresponsible behavior. The opportunity cost of doing business with this regime has increased considerably and may now be too high a price to pay. I hope the Chinese will support international efforts to pressure this Iranian regime at this critical time with the understanding that these efforts could ultimately result in a more reliable and stable partner in Tehran.

It is next to impossible that the Iranian regime will be able to prove that its nuclear sites are for peaceful purposes by this Thursday. The Obama administration needs to be ready to move quickly and build on international momentum created over the past week to pressure this regime. That is why we in the Senate need to be ready to play our part, support the administration, and move on sanctions.

We currently have two proposals on Iran pending before us. First, the Iran Sanctions Enabling Act is a measure introduced by Senator BROWNBACK and myself. We introduced this bill last May. This would allow State and local government pension funds to divest from companies that do more than \$20 million in business with the Iranian energy sector. The second bill, the Iran Refined Petroleum Sanctions Act, introduced by Senators BAYH and KYL, explicitly empowers the President to impose new economic sanctions on foreign firms involved in the export of gasoline and other refined petroleum products to the Islamic Republic of Iran. I am cosponsor of this bill, along with more than 75 of my Senate colleagues.

The Iran Sanctions Enabling Act is modeled on similar legislation passed in response to the genocide in Sudan. Eighteen State legislatures have passed individual Iran sanction measures, and our legislation would bring these State efforts into line with Federal law. When President Obama was in the Senate, he introduced an earlier version of this legislation. It was right in 2007, and it is right in 2009.

Analysts have estimated that Iran requires \$20 billion annually in investments for its oil and natural gas sector. This sector directly provides funding for Iran's nuclear program, as well as its support for international terrorism. Iran will only cease its illicit nuclear program, end its support for terrorists in Hamas and Hezbollah, and stop arming militant groups in Iraq when it is compelled to pay an economic price.

We are entering a critical phase in President Obama's strategy of engagement with Iran where Tehran will face a true test. I hope the October 1 negotiation will lead to a freeze in Iran's nuclear enrichment efforts and ultimately a nuclear weapons-free Iran. Will the regime accept the President's genuine offer of dialog and comply with international nuclear standards or will it continue a losing strategy that serves to deepen its own isolation? These are questions for the Iranian regime, and they must answer these questions.

If last week is any indication, Congress should be prepared to hand the President the leverage he needs to send a message to the regime that America cannot and will not accept an Iran with nuclear weapons. The administration needs all the tools at its disposal to increase pressure on the regime diplomatically, politically, and through more stringent economic sanctions.

I call on my colleagues to listen to legislatures in so many States across the country that have passed divestment measures already. The American people do not want anything to do with investing in this regime. Let's pass divestment and petroleum sanctions and send a message to this regime and to the international community that a nuclear-armed Iran is unacceptable.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2558

Mr. INOUE. Mr. President, earlier, the Senator from Arizona raised concerns that the Committee on Appropriations had reduced funding in the operation and maintenance accounts. As I noted in my opening statement, this committee of ours reviews the entire budget and adjusts funds based on that review. That review came out with various results, and I would like to discuss some of them with you.

Before I do the analysis, I would just point out to my colleagues the budget that we are considering at this moment was formulated about a year ago—a year ago. That is when the process began. I am certain all of us will agree that since that time much has changed. Therefore, the committee believed we owe it to the Senate to apply the funds we recommended where they are most needed at this moment, not where they were needed a year ago.

For example, the reductions to operations and maintenance programs we recommended are based on a lack of justification or of changed requirements. The funds are not reduced because of a need to transfer funding to other appropriations.

The Senator from Arizona suggested we are taking out certain funding to pay for earmarks. The O&M accounts—operation and maintenance accounts—were reduced in this fiscal year 2010 base budget for many reasons, and just let me explain a few.

Five hundred million dollars, or half a billion dollars, was not a cut as suggested by the Senator from Arizona, but it was, rather, a transfer from the base budget request to the overseas contingency operations budget because the resources for certain programs were more appropriately funded for the Iraq and Afghanistan war. This is what they suggested.

One hundred million dollars was reduced based on administrative savings proposals. In April of this year the Office of Management and Budget was directed by the President to work with agencies to identify cuts to their administrative budgets separate and apart from those identified by the fiscal year 2010 budget—beyond that.

The DOD savings identified by the administration was \$100 million in fiscal year 2010, and we allocated these funds to other worthy projects.

Finally, \$100 million was cut from the Security and Stabilization Program because that was not authorized by the Senate Armed Services Committee.

Mr. President, we do this type of review every year. Every year someone complains their programs are cut, but we stand by our recommendations. We do more to enhance the readiness of the forces in this bill than was requested. Keep in mind since this budget was drafted, we have requested and added 30,000 more troops. We do so by providing equipment to our National Guard and Reserves. Everyone supports the National Guard, but we give them secondhand tools. It is about time they got some good ones. We do so by applying resources to buy MRAPs to protect our troops. And, yes, we do so to buy more C-17s to carry our forces wherever our leaders send them.

I thank the Chair.

Mr. LEVIN. Mr. President, I support the McCain amendment that would strike the \$2.5 billion in additional funding for C-17 aircraft in the committee-reported bill and restore serious cuts that were made in the readiness accounts, in part to shift funds to support continued C-17 production.

Terminating production, like closing a base, can involve some economic loss for the communities involved. It involves pain—we understand that—up close and personal. But we must do so from time to time and make these difficult decisions. We have to do that for what is best for the Nation and for the men and women in the Armed Forces because, as Secretary Gates said in a letter to me today expressing support for ending C-17 production: The Department does not need additional C-17s to meet strategic needs.

First, I want to agree with Chairman INOUE that the C-17 is a fine aircraft. I have been a strong supporter of the C-17 program, even when it was having growing pains early in the program. If we did not already have a C-17 aircraft fleet, we would have to create one. But this is not a question of whether we should buy the C-17. We have bought them, for a total of 213 aircraft. It is a question of "How many C-17s do we need?"

On that very point, I wrote a letter to the current Chief of Staff of the Air Force, General Schwartz, who was then commander of the U.S. Transportation Command, on November 6, 2007.

I had asked for his professional opinion as to whether we needed C-17 aircraft beyond the 190 C-17 aircraft the Air Force had already bought, and he gave us his personal and professional opinion. He said:

Since you asked for my personal and professional opinion, I believe that 205 C-17s and 111 C-5s is the correct fleet mix for the future.

He explained how he reached that opinion.

Mr. President, I ask unanimous consent that my letter to General Schwartz and his letter to me be printed in the RECORD, and also a letter I received from Secretary Gates be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, November 6, 2007.

General NORTON A. SCHWARTZ, USAF,
Commander, U.S. Transportation Command,
Scott AFB, IL.

DEAR GENERAL SCHWARTZ: The conferees on the National Defense Authorization Act for Fiscal Year 2008 are meeting now to reach agreement on the contents of this bill. One of the issues before the conferees is the question of buying more C-17 aircraft as recommended in the House-passed bill.

Before we come to a conclusion on the best way to proceed, we need to hear your personal and professional opinion on two issues: (1) what is your requirement, if any, for C-17 aircraft beyond the 190 C-17 aircraft that the Air Force has already bought; and (2) what is the basis of your requirement, if any, for aircraft beyond the 190 C-17 aircraft that the Air Force has already bought.

Due to the urgency of completing our conference, we appreciate receiving your response to these questions no later than 5 p.m., Tuesday, November 6, 2007.

Sincerely,

CARL LEVIN,
Chairman.

U.S. TRANSPORTATION COMMAND,
Scott Air Force Base, IL, November 6, 2007.
Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: Sir, thank you for the opportunity to respond to your questions concerning the strategic airlift fleet. I support the programmed strategic airlift fleet of 180 C-17s, extended by the Fiscal Year 2007 Bridge Supplemental to 190 aircraft, combined with 111 modernized and reliability improved C-5s. This fleet mix, augmented with the capability of the Civil Reserve Airlift Fleet (CRAF), provides sufficient airlift capacity to meet strategic and operational objectives during large-scale deployments, while supporting other high priority operations and forward deployed forces.

However, the outcome of the C-5 modernization program will have a direct impact on the capacity the C-17 will shoulder. Therefore, given the uncertainty surrounding the C-5 modernization program, I cannot recommend terminating C-17 production at this time.

Since you asked for my personal and professional opinion, I believe 205 C-17s and 111 C-5s is the correct fleet mix for the future. I reach this opinion by combining the analysis of available million-ton-miles per day (MTM/D) capability, fleet mission capable rates, the annual flying hour program, average cost per flying hour, total number of organic aircraft tails, available pallet capacity, and average age of the fleet. Taking these factors together, I personally conclude 205/111 is the sweet spot.

My top airlift priority, however, remains the recapitalization of our aging tanker fleet. The KC-X will not only fulfill its primary refueling role, but will multiply our transportation options. The strategic airlift fleet mix should be calibrated as necessary to account for this strategic necessity and to ensure we don't over-build overall organic capacity to the detriment of our commercial partners.

Thank you for considering my input on these very important issues. And as always, thank you for the outstanding leadership you provide our country and for the excellent support you provide the Armed Forces of the United States.

Sincerely,

NORTON A. SCHWARTZ,
General, USAF, Commander.

THE SECRETARY OF DEFENSE,
Washington, DC., Sept. 29, 2009.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing as a follow up to our discussion last week regarding the retirement of strategic airlift aircraft.

The Department fully supports the language in Section 311 of the Supplemental Appropriations Act of 2009 (Public Law 111-32) which requires a minimum of 292 strategic airlift aircraft as reflected in the Department's 2005 Mobility Capability Study.

Since the release of MCS-05, Congress has funded an additional 33 C-17s the Department did not request. The addition of these C-17 aircraft influenced our decision to upgrade only 52 of 111 C-5s with the Reliability Enhancement and Re-engining Program (RERP). Congress is now considering adding another 10 C-17s in the FY2010 budget.

The Department's current fleet of 324 aircraft (213 C-17/111 C-5) is in excess of strategic airlift needs, driving increased operating costs at the expense of other priorities. Each C-5A costs over \$13 million in annual operating expenses. Since we are over our current requirement by eight aircraft, as determined by the analysis conducted during the C-5 RERP Nunn-McCurdy recertification, it costs the Department over \$100 million a year in excess expenditures. These costs will only grow if we receive additional C-17s and/or delay the ability for the Department to retire excess aircraft.

Initial indications from Mobility Capability Requirements Study 2016 show the strategic balance will not fundamentally change. This leads me to believe: (1) the Department does not need additional C-17s to meet strategic needs; and (2) the Department needs to begin shedding excess strategic airlift inventory by retiring a portion of the C-5A fleet now. The Department requests your support and authority to allow the proper management of the strategic airlift fleet to meet the Nation's requirements.

Thank you for your strong interest and continued support of the Department.

Sincerely,

ROBERT M. GATES.

Mr. LEVIN. Mr. President, for those members of the Senate not familiar with the phrase "personal and professional opinion," let me explain. In the Armed Services Committee, we require that military officers, appointed to senior positions such as the Transportation Command position, affirm that, when asked for their personal and professional opinion on any matter, they are obliged to give their own opinion, whether that opinion agrees with that of the Secretary of Defense, the President, or anyone else in the executive branch.

General Schwartz replied to my letter on November 6, 2007:

Since you asked for my personal and professional opinion, I believe that 205 C-17s and 111 C-5s is the correct fleet mix for the future. I reach that opinion by combining the analysis of available million-ton-miles per day (MTM/D) capability, fleet mission capable rates, the annual flying hour program,

average cost per flying hour, total number of organic aircraft tails, available pallet capacity. And average age of the fleet. Taking these factors together, I personally conclude 201/111 is the sweet spot.

It is clear from his letter that General Schwartz and the members of TRANSCOM had given serious thought to the question of how many C-17s we should have.

More recently, in the fiscal year 2008 Defense Authorization Act, we required that the Department conduct a Study on Size and Mix of Airlift Force. That study was conducted by the Institute for Defense Analyses, IDA, and was completed in February, 2009. Among the questions that the study answered were the following:

What are the cost and other implications for stopping production of the C-17 line and then restarting it later, if needed?

Our assessment of the C-17 line shutdown and restart is that continued production, even at low rates, is expensive relative to restart costs. Moreover, under the scenarios and other assumptions considered in this study, additional C-17s were not needed to meet the MCS (Mobility Capability Study) moderate-acceptable-risk delivery rates used as a benchmark by the analyses conducted here. We also found that retiring C-5As to release funds to buy and operate more C-17s is not cost-effective.

Mr. President, the time has come to stop C-17 production at 213 C-17 aircraft. That is all we need to buy, that is all we can afford to buy, and that is all we should buy.

The money that would be freed up by the McCain amendment would be transferred to the operation and maintenance, O&M, accounts. The bill cut roughly \$2.4 billion from the budget request. I fear that this overall reduction could force the Department to make serious reductions in O&M activities, if not, in fact, forcing the Department to ask for another supplemental funding request. We should do all we can to avoid that possibility.

Mr. CONRAD. Mr. President, I rise to offer for the record, the Budget Committee's official scoring of H.R. 3326, the Departments of Defense Appropriations Act for fiscal year 2010.

The bill, as reported by the Senate Committee on Appropriations, provides \$636.3 billion in discretionary budget authority for fiscal year 2010, which will result in new outlays of \$401.7 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the bill will total \$646 billion.

The Senate-reported bill is \$1 million below its section 302(b) allocation for budget authority and is \$28 million below its allocation for outlays.

The bill includes \$128.2 billion in budget authority designated as being for overseas deployments and other activities. Pursuant to section 401(c)(4) for the 2010 Budget Resolution, adjustments to the Appropriations Committee's section 302(a) allocation and to the 2010 discretionary spending limits were made for that amount and for the outlays flowing therefrom.

No budget points of order lie against the committee-reported bill.

I ask unanimous consent that the table displaying the Budget Committee scoring of the bill be printed in the RECORD.

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

H.R. 3326, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

(Spending comparisons—Senate-Reported Bill (in millions of dollars))

	Total
Senate-Reported Bill:	
Budget Authority	636,270
Outlays	646,043
Senate 302(b) Allocation:	
Budget Authority	636,271
Outlays	646,071
House-Passed Bill:	
Budget Authority	636,293
Outlays	647,932
President's Request:	
Budget Authority	640,137
Outlays	650,641
SENATE-REPORTED BILL COMPARED TO:	
Senate 302(b) allocation:	
Budget Authority	-1
Outlays	-28
House-Passed Bill:	
Budget Authority	-23
Outlays	-1,889
President's Request:	
Budget Authority	-3,867
Outlays	-4,598

NOTE: The table does not include 2010 outlays stemming from emergency budget authority (BA) provided in the 2009 Supplemental Appropriations Act (P.L. 111-32) but does include outlays from regular BA designated as being for overseas deployments and other activities. The 2010 BA total includes \$5 million in non-defense BA resulting from that Act. The remaining BA is classified as defense.

EXECUTIVE SESSION

NOMINATION OF JEFFREY L. VIKEN TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH DAKOTA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to consider the following nomination, which the clerk will report.

The assistant bill clerk read the nomination of Jeffrey L. Viken, of South Dakota, to be United States District Judge for the District of South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, as you know, one of the duties granted to the Senate in the Constitution is the advice and consent of judges appointed by the President to the bench. The lifetime appointment of a judge is a very serious decision, one that has a lasting impact on our democracy.

Today the Senate takes up the nomination of Jeff Viken to be Federal district judge for South Dakota. It is this nomination that I wish to speak of today.

So far this Congress, under the new President, has confirmed two judges. One of those judges is Supreme Court Justice Sonia Sotomayor and the other is a Second Circuit judge. I am proud to have a South Dakotan as the third judge to be confirmed by the Senate. However, we are 9 months into this new administration, and we have only confirmed two judges.

I must say I think the process of nominating and confirming judges has become increasingly overpoliticized. While I believe a President should have some latitude in selecting judges, they should not be ideologues.

Jeff attended law school at my alma mater, the University of South Dakota, where our attendance overlapped. I received my law degree in 1975, and Jeff received his law degree in 1977. Jeff has served as an assistant U.S. attorney and acting U.S. attorney for South Dakota before going into private practice. His extraordinary reputation of skill and integrity during his years of public and private law practice will translate well and benefit this court. The same can be said of his tenure as the Federal Public Defender for North and South Dakota, a job he has held since 2003.

Regarding his nomination, Jeff received a "well qualified" rating from the American Bar Association. It is clear he has an accomplished résumé and many years of public service. It is a great honor that President Obama has placed on Jeff. We are very fortunate to have a great member of the South Dakota legal community nominated to this post. Jeff has many years of public service, and we look forward to his future work for the people of South Dakota. Most importantly, his nomination to the bench is a victory for justice and the rule of law, not only for South Dakota but for our Nation.

I have known Jeff for a long time. I find him to be a nominee of good moral character and standing in the community. It is with great satisfaction that I will cast my vote today for the confirmation of Jeff Viken to be the next U.S. Federal district judge for South Dakota. I urge my colleagues to support this very qualified nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank Senator JOHNSON for his comments and value his opinion on this nomination. I look forward to seeing this nominee confirmed.

The confirmation process we have in this country is a very important matter. Our Democratic colleagues are, understandably, inclined to be supportive of whomever the President puts up. It has been a recognized responsibility for the minority party, the party that is not of the President's party, to ask questions and dig into the backgrounds of these nominees and move the good ones and raise the proper questions if there are problems.

Mr. Jeffrey L. Viken has an impressive background. Early in his career, he was an Assistant and Acting U.S. attorney. He is a member of the trial lawyers plaintiff bar association in South Dakota. He has been in private practice for 22 years, and for the last 6 years he has been a Federal Public Defender where he defends criminal cases. So he has been a prosecutor and a public defender. I guess that is a pretty good match, and I am happy we were