

NOT VOTING—2

Byrd

Kennedy

The nomination was confirmed.

Mr. KERRY. Madam President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KYL. Madam President, today the Senate confirmed Harold Koh to the position of Legal Adviser to the State Department by a vote of 62 to 35. I voted against his confirmation for reasons I explained on the floor yesterday. Chiefly, I am concerned about his support for a transnational legal process. The *National Review* recently published an article that explores the inherent conflict between transnational legal structures built on "global norms" and the constitutionally defined role of the American judiciary. I ask unanimous consent that it be printed in the RECORD.

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

KOH FAILS THE DEMOCRACY TEST

(By John Fonte)

Advocates of global governance advance their agenda through the "transnational legal process." Harold Koh, former dean of the Yale Law School, who has been nominated by President Obama to be the legal adviser to the State Department, is a leading advocate of this "transnational legal process." His confirmation hearing is today, Tuesday, April 28.

Dean Koh has written extensively—sometimes clearly, sometimes obtusely—on transnational law and the "transnational legal process." In a rather clear paragraph in *The American Prospect* (September 20, 2004), Koh explains how the system works: Transnational legal process encompasses the interactions of public and private actors—nation states, corporations, international organizations, and non-governmental organizations—in a variety of forums, to make, interpret, enforce, and ultimately internalize rules of international law. In my view, it is the key to understanding why nations obey international law. Under this view, those seeking to create and embed certain human rights principles into international and domestic law should trigger transnational interactions, which generate legal interpretations, which can in turn be internalized into the domestic law of even resistant nation-states.

Koh says much the same thing in the *Penn State International Law Journal* (2006)—more abstractly, to be sure, but it is worth listening to his voice to begin to appreciate the tone of the global-governance debate in legal circles: To understand how transnational law works, one must understand "Transnational Legal Process," the transsubstantive process in each of these issues areas [business, crime, immigration, refugees, human rights, environment, trade, terrorism] whereby [nation] states and other transnational private actors use the blend of domestic and international legal process to internalize international legal norms into domestic law. As I have argued elsewhere, key agents in promoting this process of internalization include transnational norm entrepreneurs, governmental norm sponsors, transnational issue networks, and interpretive communities. In this story, one of these agents triggers an interaction at the inter-

national level, works together with other agents of internalization to force an interpretation of the international legal norm in an interpretive forum, and then continues to work with those agents to persuade a resisting nation-state to internalize that interpretation into domestic law.

Koh notes that the crucial mechanism for incorporating these global norms that are "created" and "interpreted" in transnational forums into American constitutional law is the American judiciary. As Koh declares, "domestic courts must play a key role in coordinating U.S. domestic constitutional rules with rules of foreign and international law."

The global norms that are to be "internalized" into American law cover a wide range of policy areas, including matters of foreign policy, terrorism, internal security, commerce, environment, human rights, free speech, and social issues such as feminism, abortion, gay rights, and the status of children.

To ask the crucial questions of democratic theory: Who governs? Who decides?

For the advocates of global governance, the policy issues listed above are typically global problems that require global solutions. In this view, international judges, NGO activists, international lawyers, and the like operating in transnational forums such as the International Court of Justice, the International Criminal Court, and various U.N. agencies are the appropriate decision-makers.

For the advocates of liberal democracy, these issues should be decided through the democratic political process. In the United States, this would mean the elected representatives of the people: the Congress and president at the national level, state legislatures and governors at the state level, and city councils and mayors at the local level.

To be sure, the American judiciary should perform its constitutional role of interpreting the laws made by the political branches of American democracy. However, it is not appropriate for American courts to impose or "internalize" global norms, rules, or laws "created" at transnational forums by transnational actors who have no direct accountability to "We the People of the United States"; actors who not only are not elected by the American people, but who are, for the most part, not even citizens of the United States. It is not appropriate, that is, if one believes in liberal democracy.

But, of course, the "transnational legal process" articulated by Harold Koh and the politics of transnationalism generally are not democratic. They represent a new form of governance that I call "post-democratic." To "make, interpret, [and] enforce" international law, "which can in turn be internalized into the domestic law of even resistant nation-states" (as Koh describes it), is to exercise governance. But do these transnational governors have the consent of the governed?

The transnational legal process fails the "government by the consent of the governed" test in two ways. First, the democratic branches of government, the elected representatives of the people, have no direct input either in writing the global laws in the first place, or even in consenting to their domestic internalization, as, for example, happens when the Senate ratifies a treaty or the Congress passes enabling legislation for a non-self-executing treaty.

Second, there is no democratic mechanism to repeal or change these international rules that are incorporated into U.S. law by this process. What if the American people decide that they object to these global norms and transnational laws that were imposed upon them without their consent (on, for example,

the death penalty, internal security, immigration, family law, etc.)? What if the American people at first approved, but later changed their minds on, some of these rules: How can these global norms, now part of international law and U.S. constitutional law, be repealed? Legislation to repeal the global norms could be deemed "unconstitutional." In short, there are no democratic answers to these questions consistent with the transnational legal process, because it is not a democratic process.

At the end of the day, the argument over the transnational legal process is one part of a larger argument that will come to dominate the 21st century: Who governs?

Will Americans continue to decide for themselves public policies related to national security, human rights, immigration, free speech, terrorism, the environment, trade, commercial regulation, abortion, gay rights, and family issues—or will questions be decided by "transnational issue networks" working with "transnational norm entrepreneurs," "governmental norm sponsors," and "interpretive communities," with the complicity of American judges?

The PRESIDING OFFICER. Under the previous order, the President shall be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 2918.

The legislative clerk read as follows:

A bill (H.R. 2918) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2010, and for other purposes.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, there will be at least one more vote today.

Senator NELSON should be here momentarily to start managing the Legislative Branch appropriations bill.

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. NELSON of Nebraska. Madam 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. 1365

(Purpose: In the nature of a substitute.)

Mr. NELSON of Nebraska. Madam President, it is my understanding that there is an amendment already at the desk.

The PRESIDING OFFICER. That is correct. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. NELSON] proposes an amendment numbered 1365.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. NELSON of Nebraska. Madam President, I rise today to present the fiscal year 2010 legislative branch bill. I want to start by thanking Senator MURKOWSKI and her staff for their help in putting this bill together. I am very grateful for her support on this subcommittee. This was truly a bipartisan effort from start to finish. I thank her and I note that her health is improving because her leg is improving and she is getting to places on her own now.

This bill funds the salaries of the very dedicated public servants who support the legislative branch of government. The legislative branch is home to not only all of us here in the Senate and the House, but the Capitol Police, the Library of Congress, the Architect of the Capitol, the Government Accountability Office, the Government Printing Office, the Congressional Budget Office, the Office of Compliance, and the Open World Leadership Center.

In crafting this bill, it was our firm belief that the legislative branch should lead by example, funding only the most critical needs of our agencies and being good stewards of the taxpayers' dollars. This proved to be quite a challenge when we were presented with a budget request that reflected a 15-percent increase over the fiscal year 2009 enacted level. However, after several hearings, many meetings, and countless hours of staff negotiations, I am proud to say that we did exactly what we set out to do in writing this bill.

The bill before us today totals \$4.6 billion, which is a 4.7-percent increase over the current year. The bill includes House-related items solely considered by that body which totaled \$1.475 billion. It is important to note that the Senate Legislative Branch appropriations bill, which did not include House-related items, over which we had no control, represented only a 3.3-percent increase over fiscal year 2009 and was significantly below the budget request. If you include the \$25 million that GAO received in the stimulus bill, then this is only a 2.4-percent increase over current year funding levels.

The fiscal year 2010 bill provides \$934 million for the Senate, which is an increase of 4.3 percent over the current year. This funding will provide for annual salary and operating increases for Senate offices, the Senate Sergeant at Arms, the Secretary of the Senate, and other agencies that support the operation of the Senate.

The bill includes \$331 million for the Capitol Police, which is an 8-percent increase over current year. This includes \$15.4 million to fully implement the merger of the Library of Congress Police with the Capitol Police, providing seamless security throughout the entire Capitol complex.

The bill also provides for 10 additional civilian positions to help resolve management issues, including the constant increase in the demand for overtime. The committee did not provide

the 76 new officers requested in fiscal year 2010, but does direct GAO to work with the Capitol Police to ensure that they are getting the most efficient use of their nearly 1,800 officers currently on board, by far the biggest this force has ever been.

The Architect of the Capitol is funded at \$445 million, which is a decrease of \$18 million, or 4 percent below current year. The amount includes \$48 million in deferred maintenance projects, including \$16.8 million for continued work on asbestos abatement and structural repairs in the utility tunnels. I am happy to say that the utility tunnel work is on schedule and significantly below original cost estimates. The bill also includes over \$14 million in energy and sustainability projects across the Capitol campus.

The Library of Congress funding totals \$638.5 million, which is a 4-percent increase over the current year. This amount includes \$8.5 million for technology upgrades to allow for increased digitization of the Library's collections and full funding for the Digital Talking Book for the Blind project.

The Government Accountability Office is funded at \$553.6 million, which is a 4-percent increase over current year, and provides all salary and inflationary increases for GAO's current staff level.

The Government Printing Office is funded at \$147 million, which is a 4-percent raise over current year, allowing for the continued implementation of GPO's Federal Digital System and other technology upgrades.

The Congressional Budget Office is funded at \$45 million, a 2-percent increase over the current year. Combined with the \$2 million included in the supplemental, CBO will have adequate funding and FTEs needed to perform the critical work associated with health care spending, the current financial crisis, and global climate change.

The Office of Compliance is funded at \$4.4 million, an increase of 8 percent above current year to cover inflationary changes and to allow the Office to hire an Occupational Safety and Health Program supervisor.

Last, but not least, the Open World Leadership Office is funded at \$14.4 million, which is a 4-percent increase over the current year.

I believe the bill before the Senate is sound, prudent, and fiscally responsible. Taking into account the calculations I have given, it is a 2.4-percent increase over the current with those calculations. I encourage my colleagues to support its passage.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. Madam President, I rise this afternoon in support of the Legislative Branch appropriations bill for fiscal year 2010. The chairman of the subcommittee, Senator NELSON, and I have worked collaboratively in this process of putting the bill together. I thank him for that. I think we had some real substance in our

hearings and spent the time, the energy, and the focus we needed on these matters regarding this particular appropriation.

When combined with the House items, the bill before us totals \$4.7 billion, and while this is an increase of 5 percent over the current year, the bill we reported out of the committee represented less than a 3-percent increase over fiscal year 2009, as the chairman has said—in fact, 2.4 percent. I would argue for those who say we need to keep our appropriations bills within the range of inflation, we are probably there at a 2.4-percent increase.

We cannot, within this body, control the amounts the other body may provide for its own operations, but the amounts for the Senate and the other legislative branch agencies that are controlled in this bill are controlled very closely, especially when we compare this with the average 15 percent increase that was requested by the legislative branch agencies. I think we worked very hard to take the requests that came before the committee and really pared them down to what was appropriate, what was needed, what was necessary.

Both Senator NELSON and I are new to the Appropriations Committee. I am very pleased we were able to have these very good and substantive hearings with all of the legislative branch agencies. We discussed the wide range of issues and challenges before the legislative branch. We worked well together and have been consistent in our efforts to eliminate unnecessary spending, tighten our belts, and help ensure that the legislative branch is a model for the rest of the government. We believed we needed to set a good standard. If we stay on schedule, we will be able to get this bill enacted prior to the beginning of the fiscal year. It is a good start to the appropriations process.

I would like to highlight just a few areas, adding on to what the chairman has mentioned.

First, with respect to the Architect of the Capitol, the bill funds those projects that address the most serious risks to safety and health, such as repairs within the utility tunnels that underlie the Capitol Complex and projects that remedy deferred maintenance in our buildings. If we don't address the maintenance backlogs, the price tags, we know, will just increase down the road.

The bill continues the Architect of the Capitol's efforts to improve energy efficiency, with over \$14 million in funding designated for this purpose.

Within the Library of Congress, we managed to include funding to begin to update the agency's information technology infrastructure. For about a decade now, there have been no increases to IT within the Library of Congress. Yet most of the users of the Library are virtual users. This was the highest priority of our Librarian of Congress, Mr. Billington. This investment will

ensure that millions of people who access the Library through its Web site will be able to find what it is they are looking for.

Similarly, within GPO, we funded the final increment for updating GPO's—this is the Government Printing Office—Web site to ensure government publications can be easily accessed and searched.

Also, the bill provides the final increment of funding to complete the merger of the Library of Congress Police into the Capitol Police. This project was initiated by Senator BENNETT when he was chairman of the subcommittee and has been promoted by each of the successive chairs and ranking members to improve security of the Capitol Complex.

Finally, there is a directive in the bill for a report by the Government Accountability Office of a study of Capitol Police staffing and overtime. Senator NELSON and I both share the concern that we right-size the Capitol Police and we control overtime spending. We recognize security is absolutely paramount, but effective management of the agency is equally as important.

I thank Senator NELSON for his efforts and those of his staff and my staff in putting this bill together. I also thank the full committee chairman, Senator INOUE, and the ranking member, Senator COCHRAN, for getting us to the floor today.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Madam President, today the Senate begins its consideration of our annual spending bills. We start with the legislative branch appropriations bill. I am pleased to announce to my colleagues that as of this moment, the Appropriations Committee has reported out four appropriations bills. It may please you to know, Madam President, that all of these bills—Legislative, Homeland Security, Commerce, and Interior—passed the committee unanimously and all of the bills represent a bipartisan approach.

We start with the legislative branch appropriations bill not because we want to take care of ourselves, but because it is the only bill so far which has been passed by the House and marked up by the Senate Appropriations Committee.

Without unanimous agreement, the Senate can only act on those appropriations bills which have already been approved by the House. While we begin today with the legislative bill, we are confident that several bills will soon follow. We are optimistic that the Homeland Security bill will pass the House this week and be available for consideration before we adjourn for the recess. Later this week the Committee on Appropriations will meet to consider two additional appropriations bills and we expect to meet in early July to prepare another five bills. Over the next several weeks we expect to have many bills debated and hopefully

passed by the Senate so that we can begin final conference deliberations on these critically important measures.

The bill before the Senate, as prepared by our Legislative Subcommittee Chairman, Senator NELSON of Nebraska and his ranking member Senator MURKOWSKI of Alaska provides \$3.1 billion for the operations of the Congressional Branch, excluding amounts specifically requested for the House of Representatives. It represents a 3-percent increase over the amounts provided in FY 2009, but it is nearly 10 percent below the amount requested.

Our colleagues should thank Senators NELSON and MURKOWSKI for completing their hard work on this bill. Because of the change in administration, the committee has had the details of the President's request for less than 2 months. Yet our colleagues, who have only assumed their subcommittee leadership positions this year, have already completed their review and prepared this measure.

The bill was marked up by the committee last week and approved on a unanimous vote. It is a tribute to our two managers that this bill was passed by the committee without a single amendment.

For those of our colleagues who focus on the small part of the Appropriations bills which are earmarks, I would note there is only one earmark in this bill.

Many critics and pundits constantly overstate the controversy over earmarks, but here in the bill which provides the essential support for our legislative branch, we include only one earmark.

As we begin our process to provide for our Nation's spending it is important to remember why we are engaged in this annual exercise.

As the Framers of our Constitution recognized it is critically important to our democracy to ensure that the people's representatives in the Congress are the ones who determine how taxpayer money should be expended.

While the Congress relies on the expertise of the executive branch to develop programs and to construct spending plans, it is our responsibility to determine which of these programs and plans is right for the American people. We were elected to represent our States. One way in which we carry out our responsibilities is by determining our Nation's budget.

Included in this process is the relatively small amount of funding that are included in direct response to our constituents' petitions. In the fiscal year 2010 bills that the Appropriations Committee will recommend to this body we will reduce our spending on non-project based earmarks by 50 percent compared to amounts for these program in fiscal year 2006.

To understand the importance of our willingness to curtail this type of spending, I would note that this means a reduction of more than \$8 billion in earmarks.

Chairman OBEY and I have agreed that, as long as he and I are Chairmen,

the total of non-project based earmarks in appropriations bills will not exceed 1 percent of the total discretionary funding appropriated by the committee in any fiscal year.

What this means is that this year and in future years we will allocate 99 percent of the funds in the budget for national programs and programs which are included in the president's request, and only 1 percent, really less than 1 percent, for programs that are included in direct response to the needs of our States, cities, towns and the constituents whom we represent.

It is essential that the Congress maintain its control over Federal spending. While it may not always be politically popular to challenge the authority of Presidents in determining the spending priorities for the country, it is how we safeguard the democratic traditions of this Nation.

The day that we cede this authority to the White House is the day when we create a monarchy. As chairman of the Appropriations Committee and a member of this body for more than 46 years, I have no intention to allow that to occur.

As the Senate reviews this and the other spending bills which will soon follow, I urge it to be mindful of the importance of this task.

The bill before this body deserves the support of every Member of this body. It provides for the essential services to fulfill the functions of our legislative branch.

It is a clean bill free of unnecessary legislative riders. It is \$300 million below the amount requested and within the funding allocation provided to the subcommittee. I strongly recommend its approval.

THE PRESIDING OFFICER. The Senator from Louisiana is recognized.

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. VITTER. Madam President, I have a motion to commit with instructions at the desk.

THE PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Mr. VITTER moves to commit the bill H.R. 2918 to the Committee on Appropriations with instructions to report the same back to the Senate making the following changes.

(1) Amend the amounts appropriated in the bill so as to report back a bill with an aggregate level of appropriations for fiscal year 2010 not more than the level enacted for fiscal year 2009, while not reducing appropriations necessary for the security of the United States Capitol complex.

Mr. VITTER. Madam President, I will outline my motion to commit shortly. First, by way of introduction, let me say how disappointed and frustrated I am that another amendment I had proposed for this bill was consistently blocked out all of this week, and no vote, no consideration was allowed by the distinguished majority leader. That amendment, which had been filed some time ago, which I worked hard to get before this body, would have passed again, a repeal of the automatic pay

raise provision for Members of the Senate and Members of the U.S. House currently in the law.

We are in the midst of a very serious recession. American families all around the country are really hurting. Many have been laid off, lost their jobs through investment losses and the stock market. Many others are scared to death about their future. Yet all of us as Members of Congress live under this system where we get an automatic pay raise virtually every year, a pay raise on autopilot without any need for a proposal or a bill to be offered, to be filed, to be debated or voted on. That really is a very offensive system to millions of American families, particularly so during this serious recession.

I am very sorry the majority leader felt the need to work at every turn to block out any consideration of this amendment and certainly any vote on this amendment. We have a unanimous consent agreement on this bill before us. It contains amendments that are not germane to the bill. It contains amendments that have points of order against them. There is no legitimate way the majority leader can distinguish my amendment from those, except that he didn't want to deal with the issue.

We already have dealt with it by passing a stand-alone bill through the Senate. But, of course, to require the House to deal with it, we need to effectively attach it to another must-pass bill. So that remains my goal, and my effort will continue. I wish to assure and reassure the majority leader that effort will continue and we will be talking about this more in the future.

With regard to my motion to commit with instructions, it has a very similar theme because this motion to commit would simply send this appropriations bill back to the committee and ask that they restyle it so that it does not spend any more money than we spent on legislative appropriations for the last fiscal year. That would constitute about a \$76 million cut. That is not a huge amount of money in Washington terms, but I think it would be the beginning of a huge and an important and an appropriate statement by this body.

Again, as I said, American families are hurting all over the country. There have been layoffs, job losses; there have been tremendous investment losses; people's savings have been whittled away, down to nearly nothing in some cases. People who had retired, counting on a certain future have seen that future disappear in front of their eyes. They don't have the luxury, particularly now, this year, in this recession, of any percentage increase—many of them. Many of those American families are dealing with a huge income decrease. Wouldn't it be reasonable and appropriate for us collectively to say we are going to live by the same dollar amount as we did last year? Consider that amount last year was an 11-percent increase from the year before, so that amount Congress passed last year

was an 11-percent increase—about triple the rate of inflation—done in the middle of this serious recession. That was a significant increase last year. Shouldn't we temper that? Shouldn't we make a statement that we are going to live with the same dollar amount as last year?

I also note that under the exact language of my amendment, No. 1, we would give maximum flexibility to the Appropriations Committee about how they would find those modest savings of \$76 million, and No. 2, the one thing we would protect, the one thing we would tell them not to touch is spending which is essential for security of the Capitol Complex. There would be no chance—not that it would be the desire of the Appropriations Committee—there would be no possibility of sacrificing anything to do with security of the Capitol Complex.

This is a pretty simple and a pretty basic suggestion. I think it is a pretty commonsense one. American families are struggling with the worst recession since World War II. Millions of American families have one or more members who have lost their jobs. Those families have seen their incomes go down enormously. Tens of millions of other Americans have seen life savings cut in half. Folks in retirement or near retirement have seen that whole picture change before their eyes. So there are plenty of Americans who are not dealing with an increase from last year, they are dealing with a huge decrease. How about we say on a bipartisan basis: OK, our legislative budget got an 11-percent increase last year even as this recession was underway.

So this year, we are going to get a zero percent increase. This year we are simply going to live with the same dollars as we lived with for the legislative branch last year. This is simple, straightforward, but I think important. Again, we would do this by giving the committee maximum flexibility in terms of finding those savings, and we would do it by protecting the security of the Capitol complex.

I urge all of my colleagues to support this important symbol and this important statement as families hurt all around our country.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I rise in opposition to the Vitter amendment to fund the legislative branch agencies at current year levels, which would result in a reduction actually of \$101 million below the level that Senator MURKOWSKI and I have proposed in the bill we are considering.

The fiscal year 2010 bill reflects, as I have mentioned and said, only a 2.4-percent increase over fiscal year 2009 spending when you take GAO's stimulus funding into account.

When we started drafting this bill, the budget request we received sought

a 15-percent increase over fiscal year 2009. From the outset, my ranking member and I have been committed to holding this bill to the lowest possible funding level, and to lead by example in being good stewards of the taxpayers' money.

My intention was to hold this bill at the rate of inflation, if we could, and it frankly pained me to even have to go as far as 2.4 percent over current year. But the reality is there are expenses in the legislative branch that we are responsible for.

As a former Governor, I am used to hearing individuals assert the desire to make budget cuts without actually offering any specifics. So I am used to what we are seeing here tonight. I say to my colleague, if he has specific suggestions about what types of cuts would be prudent—he has told us what not to cut, but if he has some specific suggestions about the types of cuts, I would be happy to talk about them. Speaking in generalities will not get the job done. I can appreciate the desire to keep spending restrained. However, if the Senator wishes to make specific suggestions of the \$100 million cuts that he is, in fact, proposing, I would welcome it, as I would have welcomed hearing any of the Senator's suggestions during the weeks and months it took to create this bill.

As a matter of fact, I have visited with my colleague Senator JOHANNIS about the increases in this budget this year, and have suggested to him that if there are other areas we should cut, then we would take his thoughts into consideration and make any adjustments that would make sense.

But, to my knowledge, I have not received any note of concern from the Senator, the sponsor of this amendment, about any of the items included in this bill while it was being created. We are all concerned about fiscal responsibility.

Let's talk a little bit about this bill and what this amendment would mean. We now have a fully operating Visitor Center here in the Capitol that costs money to operate and to secure, recently completed. There are still costs associated with bringing it up and into the running process. The Visitor Center has provided increased amenities for our constituents when they make the trip to Washington to visit. But it does cost money.

I have already outlined the bill in my opening statements, so I will not go through all of that again.

This is the first time through this process as chairman of the Legislative Branch Subcommittee, and I must say I was honored when Chairman INOUE tasked me with the enormous responsibility.

This committee funds the agencies Congress relies on to provide them with timely information pertaining to the oversight of the Federal Government. For example, last year the Government Accountability Office, the GAO, as it is referred to, received over

1,200 congressional requests and testified at over 300 congressional hearings. Their work produced hundreds of improvements in government operations and produced significant financial savings for the American taxpayer.

The Congressional Budget Office, the CBO, also funded in this bill, actually received emergency funding in the supplemental that passed last week to further strengthen their workforce, allowing for timelier production of analyses for congressional offices.

I do not know how a spending freeze can be proposed to an agency that desperately needed this kind of help to do their job here so we can do our jobs here in Congress.

It does not make sense. I know for a fact that my colleagues depend on the CBO, that office, perhaps now more than ever before, for analysis related to health care costs, energy, and the current financial crisis.

The agencies funded in this legislative branch work for Congress. Quite simply, if you reduce their funding, you will reduce the service we receive here in Congress at an important time when we are facing important legislation. So we are a little spoiled here. But that is because of the great service we are used to receiving from the Government Printing Office to the Congressional Research Service to the Capitol Police who maintain our security, and the security of those who are in our buildings and on our grounds. These are agencies and staff that also support Congress. That is their mission. I think we owe it to them to at least to fund the cost-of-living increase for these dedicated public servants. The vote will determine whether you think your staff deserves a cost-of-living adjustment in 2010, and whether you think our Capitol Police deserve to be paid overtime with the long hours they work, risking life and limb to keep us and the thousands of Americans who visit here each year safe in the Capitol complex.

Every elevator operator, every construction worker, every plumber, every electrician, every maintenance person, every parking lot attendant, virtually every employee you encounter here in the Capitol complex, including staff present here today, is paid from this appropriations bill.

I could go on and I could go on. But I have to admit, I did not realize what a lot of those folks did until I started working on this bill. But now I do.

It is my responsibility, and the responsibility as well of the ranking member, to do what we think is right by these employees and these agencies.

I respectfully urge my colleagues to vote no on this motion.

How much time does the Senator need in response?

Mr. VITTER. I might need an additional 3 minutes to wrap up.

Mr. NELSON of Nebraska. I yield the Senator 3 minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. In summary, let me try to clarify and rebut a few points. First, to say that this bill is a 2.4-percent increase over last year's is complete fiction, because that assumes the stimulus into last year's number. In fact, last year's number, because of the stimulus—and the stimulus was a one-time bill, not a normal fiscal year bill.

No. 2, last year's bill, as I mentioned, was an 11-percent increase over the previous year, three times the rate of inflation.

No. 3, I wanted to give the committee maximum flexibility in making this modest cut. But there are plenty of suggestions I would have. I would be happy to offer specifics. I will offer one right now. The Open World Leadership Center Trust Fund, \$14.5 million. That would be almost a quarter of the savings I am asking for. That is a program to bring governmental officials from Russia and Eastern European republics to tour the United States. I am sure it is a nice idea, but I think there would be a lot of American families in the middle of this recession who would ask, is that essential? Is that core to what we are doing in government in very tough economic times? Do we actually need to do this?

We can find those savings. That program alone is a quarter of the savings my motion to commit would require. We can find those savings clearly without touching Capitol Police overtime, without touching cost-of-living increases for employees.

Finally, there are millions of American families who are not dealing with any increase this year in their incomes. They are dealing with a huge decrease. They are dealing with a huge decrease in savings. So can't we simply live with the same dollar amount as we did in the legislative branch last year? I think the huge majority of Americans would find that a very reasonable and a very modest goal.

I yield the reminder of my time.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Madam President, I move to table the Vitter motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—65

Akaka	Gillibrand	Pryor
Alexander	Hagan	Reed
Baucus	Harkin	Reid
Bayh	Inouye	Roberts
Begich	Johnson	Rockefeller
Bennett	Kaufman	Sanders
Bingaman	Kerry	Schumer
Bond	Kohl	Shaheen
Boxer	Landrieu	Shelby
Brown	Lautenberg	Snowe
Burris	Leahy	Specter
Cantwell	Levin	Stabenow
Cardin	Lieberman	Tester
Carper	Lincoln	Udall (CO)
Casey	Lugar	Udall (NM)
Cochran	Menendez	Voinovich
Collins	Merkley	Warner
Conrad	Mikulski	Webb
Dodd	Murkowski	Whitehouse
Dorgan	Murray	Wicker
Durbin	Nelson (NE)	Wyden
Feinstein	Nelson (FL)	

NAYS—31

Barrasso	Ensign	Kyl
Bennet	Enzi	Martinez
Brownback	Feingold	McCain
Bunning	Graham	McCaskill
Burr	Grassley	McConnell
Chambliss	Gregg	Risch
Coburn	Hatch	Sessions
Corker	Hutchison	Thune
Cornyn	Isakson	Vitter
Crapo	Johanns	
DeMint	Klobuchar	

NOT VOTING—3

Byrd	Inhofe	Kennedy
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The motion was agreed to.

Mr. NELSON of Nebraska. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SERVICE OF SUMMONS AGAINST AND RESIGNATION OF SAMUEL B. KENT, JUDGE OF THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

The PRESIDING OFFICER. Pursuant to rule IX of the Rules and Procedures in the Senate when Sitting on Impeachment Trials, the Secretary of the Senate will now swear the Sergeant at Arms.

The SECRETARY OF THE SENATE. Do you, Terrance W. Gainer, solemnly swear that the return made by you upon the process issued on the 24th of June, 2009, by the Senate of the United States, against Samuel B. Kent, is truly made, and that you have performed such service as therein described: So help you God?

The SERGEANT AT ARMS. I do.

Madam President, I send to the desk the return of service I executed upon service of the summons upon Judge Samuel B. Kent yesterday, June 24, 2009, at 4:30 p.m., at Devens Federal Medical Center, Ayers, MA, accompanied by a statement of resignation executed by Judge Samuel B. Kent following service of the summons, and to be effective June 30, 2009.

The PRESIDING OFFICER. The return of service and accompanying statement of resignation will be spread upon the Journal and printed in the RECORD.