

United States Senate

SELECT COMMITTEE ON ETHICS
HART SENATE OFFICE BUILDING, ROOM 220
SECOND AND CONSTITUTION AVENUE, NE
WASHINGTON, DC 20510-6425

March 29, 2012

Dear Colleague:

The Senate Select Committee on Ethics was recently asked to investigate a new issue: whether it violates Senate rules for Senators to place holds on salary increases for current Cabinet Secretaries until they perform specific official acts. The Committee recognized that it has never issued guidance addressing this unprecedented situation, and therefore sends this letter to the Senate community to make clear how it will view such behavior in the future.

Senators are sometimes appointed to Cabinet positions shortly after a Presidential election. Pursuant to Article I, section 6, clause 2 of the Constitution (the Ineligibility Clause), Members of Congress are prohibited from accepting such a position until a law is passed that “rolls back” any compensation increase for the position enacted during the Members’ term. After the date the elected term for the Senator would have ended, “restoration legislation” may be passed to restore the compensation to the level of other Cabinet Secretaries.

While Senators have long used holds on nominations to help persuade the administration to carry out or change policies, tying an incumbent Secretary’s personal salary directly to his or her performance of a specific act is different, places the Secretary in a precarious and potentially untenable position, and undermines a basic principle of government service. As stated in the Code of Ethics for Government Service, “public office is a public trust.” A government employee must not be influenced by extraneous factors when making decisions and “never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.” Tying a personal salary increase to a specific official action undermines these principles.

By this letter, Senators are hereby advised that, from and after the date of this letter, tying an existing Secretary’s personal salary to his or her performance of a specific official action will be viewed by the Committee as improper conduct reflecting discredibly on the Senate.

Thank you for your attention to this matter. If you have any questions, please feel free to contact the Committee.

Sincerely,



Barbara Boxer
Chairman



Johnny Isakson
Vice Chairman