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Salaries of Members of Congress: Current Procedures and Recent Adjustments

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Salaries of Members of Congress: Current Procedures and Recent Adjustments

Summary

Congressional debate on salary increases for Members of Congress generally focuses on the adequacy of their current pay, the costs associated with being a Member of Congress, and prevailing economic and budgetary conditions.

The U.S. Constitution, in Article I, Section 6, authorizes compensation for Members “ascertained by law, and paid out of the Treasury of the United States.” Throughout American history, Congress has relied on three different methods in adjusting salaries of Members. Stand-alone legislation, the most frequently used method, was last used to provide increases in 1990 and 1991. It was the only method used by Congress until 1967, when Congress established the commission procedure.

The second method, under which annual adjustments took effect automatically unless disapproved by Congress, was established in 1975. From 1975-1989, these annual adjustments were based upon the rate of annual comparability increases given to the General Schedule federal employees. This method was changed by the 1989 Ethics Act to require that the annual adjustment be based on certain elements of the Employment Cost Index.

Under this revised process, annual adjustments were accepted nine times and denied five times. From 1989 to January 2004, the salary of Representatives increased from \$96,600 to \$157,000, and the salary of Senators from \$98,400 to \$157,000. Members last received a pay adjustment in January 2004, based upon the formula established in 1989, increasing their salary by 1.5%, to \$157,000 from \$154,700.

In January 2004, Members were scheduled to receive a 2.2% annual adjustment, but the Senate did not agree to the conference report on an omnibus spending bill containing language that has the effect of allowing the 2.2% increase. If the Senate agrees to the report, and the bill is signed into law, Members will receive the 2.2% increase retroactive to the first pay period in January 2004.

The third method for adjusting Members’ pay is adjustments made pursuant to recommendations from the President. These guidelines are based on the recommendations of a Citizens’ Commission on Public Service and Compensation. Although the Citizens’ Commission was to have convened in 1993, it did not and has not met since then. There is no current plan to use the procedure.

This report describes the methods by which Members’ pay can be adjusted, the most recent changes to these methods in 1989, and congressional actions on Members’ pay issues since the late 1980s. Although the report covers pay adjustments for all Members, it does not address the differing pay rates for House and Senate leadership positions. **Table 1** provides Members’ payable salary rates, effective dates, and statutory authorities for 1789-2004.

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Salaries of Members of Congress: Current Procedures and Recent Adjustments

Introduction

The Constitution requires that Congress resolve the question of compensation for Members of Congress. Since 1789, congressional pay has been characterized by long periods without change, with a few instances of reduction or repeal of controversial salary increases in subsequent Congresses. The overall recent trend has been to adjust Members' pay on a more regular basis by scheduling annual adjustments. These adjustments are to reflect comparable movement in private-sector pay. However, Congress has voted several times to deny the scheduled annual pay adjustments.

Three Methods by Which Members' Pay Can Be Adjusted

Stand-Alone Legislation

Congress is required by Article I, Section 6, of the Constitution to determine its own pay. Prior to 1968, Congress did so by enactment of stand-alone legislation. This method may still be used, as it was most recently in 1982, 1983, 1989, and 1991, but two other methods are now also available.¹

Quadrennial Salary Commission

The second method by which the pay of Members of Congress can be increased is pursuant to recommendations from the President based on those made by a quadrennial salary commission. This commission mechanism for recommending salary increases for top-level federal officials was established in 1967 and first used in 1968.² Three times (in 1969, 1977, and 1987) Congress received pay increases made under this procedure; on three occasions it did not. The 1986 commission was a special one-time effort authorized because the regular commission, which met in 1984, recommended postponement of any suggested pay increases until such time as

¹ For codified statutory language regarding Member pay, see 2 U.S.C. 31.

² The commission was established in P.L. 90-206, 81 Stat. 642-645, Dec. 16, 1967, Sec. 225, Postal Revenue and Federal Salary Act (H.R. 7977). It was to be activated every fourth fiscal year.

Congress had adopted a method for disapproving them that conformed with the requirements of the Supreme Court decision in *INS v. Chadha*.³ Congress did so in December 1985. Pursuant to the recommendations of the one-time 1986 commission, Members' pay was increased \$12,100 in early 1987 to \$89,500.

Prior to 1990, the commission was named the Commission on Executive, Legislative, and Judicial Salaries. Effective with passage of the Ethics Reform Act of 1989, the commission ceased to exist. Its authority was assumed by the Citizens' Commission on Public Service and Compensation. Although the Citizens' Commission was to have convened in 1993, it did not and has not met since.

Automatic Annual Comparability Adjustments

The third method by which congressional pay can be increased is by automatic annual adjustments. Between 1975 and 1991, the pay of Members, federal executive officials, and judges was tied to the annual adjustments provided to General Schedule (GS) federal employees. These adjustments were based on surveys of pay for comparable jobs in the private sector.⁴ Such increases were recommended by the President, subject to congressional acceptance, disapproval, or modification. Congress has accepted five such increases for itself and declined 10. In January 1990, Congress received partial restoration of previously denied annual adjustments pursuant to the Ethics Reform Act of 1989.

The Ethics Act also changed the method by which the annual pay adjustment is determined for Members and other federal officials.⁵ The annual adjustment is now based on a formula using certain elements in the rate of change in the Employment Cost Index.⁶ Under this revised procedure, annual adjustments were accepted nine times (those scheduled for January 1991, 1992, 1993, 1998, 2000, 2001, 2002, 2003, and 2004) and denied five times (those scheduled for January 1994, 1995, 1996, 1997, and 1999).

January 2004 Annual Salary Adjustment. Members received an automatic annual adjustment in January 2004. That adjustment increased their salary

³ See U.S. Commission on Executive, Legislative, and Judicial Salaries, *The Quiet Crisis*, A Report by the 1984-1985 Commission on Executive, Legislative, and Judicial Salaries (Washington: July 1985); and U.S. Commission on Executive, Legislative, and Judicial Salaries, *High Quality Leadership—Our Government's Most Precious Asset* (Washington: Dec. 15, 1986).

⁴ This procedure was established in P.L. 94-82, 89 Stat. 419-421, Aug. 9, 1975, Sec. 201-204, Postal Service Compliance with Occupational Safety and Health Act (H.R. 2559).

⁵ This procedure was established in P.L. 101-194, 103 Stat. 1716, Nov. 30, 1989, Section 704, Ethics Reform Act of 1989 (H.R. 3660). Section 704 contained the revision of the method by which annual pay adjustments for Members and other top-level federal officials are determined.

⁶ The annual pay adjustment is determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the percentage change reflected in the fourth quarter (ending Dec. 31) of the 2 preceding years, minus 0.5%.

by 1.5%, to \$157,000 from \$154,700. Under the annual procedure, Members were scheduled to receive a 2.2% adjustment,⁷ but were limited to the lesser percentage increase. By law, Members may not receive an annual adjustment greater than the increase in the *basic* pay of GS federal employees. As a consequence, the adjustment was limited to 1.5%, the scheduled January 2004 GS *basic* pay adjustment.

Actions to Modify or Deny the Scheduled Member Pay Increase.

Two votes were taken this year that related to the January 2004 Member pay increase. The first was a House vote on September 4, 2003, that although not a direct vote to modify or deny the increase, was reported in some press accounts as a vote to accept a Member pay increase.

The House vote was held during consideration of the rule on H.R. 2989, the FY2004 transportation and treasury appropriation bill. H.R. 2989, as brought to the floor, did not contain Member pay language, and the House did not vote on an amendment to accept or reject a Member pay increase. However, action taken by the House on vote #463 (240-173) is considered by some to be approval of an increase since the vote had the effect of not allowing Members to offer and consider nongermane amendments to the bill.⁸ They argue that if nongermane amendments had been allowed, one could have been offered to modify or deny the scheduled 2.2% Member pay increase. This action, some believe, means that most Members voted for the raise.

It is important to note that a few Members expressed interest in introducing other nongermane amendments on entirely different issues. As a consequence, other Members believe that it cannot be said with any degree of certainty that Members would have voted to accept a pay increase if they had been given an opportunity.

Some press accounts also stated that Members voted themselves a 4.1% increase. H.R. 2938, as reported and passed, contained language (Title VI, section

⁷ The annual pay adjustment was determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the percentage change reflected in the fourth quarter (ending Dec. 31) of the two preceding years, minus 0.5%. The 2.2% adjustment was determined by taking the percentage increase in the Index between the quarters ending Dec. 2001 and Dec. 2002, which was 2.7%, and subtracting 0.5%.

⁸ On Sept. 4, 2003, the House agreed (240-173, vote #463) to order the previous question on a rule (H.Res. 351) providing for consideration of H.R. 2989, the FY2004 transportation and treasury appropriations bill. By ordering the previous question, the House voted to prevent an amendment to the rule from being offered, and to bring the rule to an immediate vote. An amendment to the rule could have waived points of order so as to permit an amendment to the bill prohibiting a pay increase. Although H.Res. 351 was an open rule that allowed any germane amendment, an amendment to prohibit the pay adjustment would not have been germane. By agreeing to order the previous question, Members voted not to consider an amendment to permit a pay raise prohibition to be offered. Had the House not agreed to a motion to order the previous question, a Member could have offered an amendment to the rule permitting a pay raise vote in some form. Under the terms of H.Res. 351, as adopted, an amendment seeking to halt the pay raise was not in order.

740(a)) providing for a 4.1% increase for GS federal employees. The increase was not applicable to Members of Congress and other top-level federal officials.

The second vote related to Member pay took place in the Senate on October 23, 2003, when the majority of Senators voted to table an amendment to H.R. 2989 prohibiting the pending Member pay increase of 2.2% (vote #406, 60-34). The amendment was offered by Senator Russell Feingold to the Senate version of H.R. 2989, the FY2004 transportation and treasury appropriation bill, which passed the same day with the 4.1% GS pay increase.

Impact of An Increase in Federal Employee Pay on the Pending Member Pay Increase . By approving a 4.1% GS federal employee pay increase, both houses sought to ensure Members of Congress would receive their scheduled 2.2% increase. That is because the *basic pay* allocation of the 4.1% increase would most likely be greater than 2.2%, probably about 3.1%. By law, Members may not receive an increase greater than the annual rate of increase in the *basic* pay of GS employees.

However, the 4.1% GS pay increase provision was not signed into law. As a result, the President's pending pay plan for GS employees became effective the first pay period in January 2004. The President's plan provides for a 2.2% increase, with 1.5% allocated for *basic pay* and 0.5% for locality pay.⁹ As a result, Member pay increased by 1.5%, and not 2.2%.

The 4.1% GS pay increase provision, which is pending Senate action, was originally contained in H.R. 2989, which was incorporated into the FY2004 omnibus appropriations bill, H.R. 2673. The conference report on H.R. 2673 was agreed to by the House on December 8; the report is scheduled for Senate consideration on January 20, 2004. If the Senate agrees to the report and H.R. 2673 is signed into law, Members will receive a 2.2% pay increase retroactive to January 1, 2004.¹⁰

⁹ See summary of the President's pay plan issued on Aug. 27, 2003, on the website of the Office of Personnel Management at [<http://www.opm.gov/oca/04tables/update.asp>].

¹⁰ There was an earlier threat to the pending 4.1% pay increase contained in the FY2004 transportation and treasury appropriation bill, H.R. 2989. The President threatened to veto H.R. 2989 because the Senate version of the bill contained language to prohibit the enforcement of the ban on travel to Cuba to which the President objected. This scenario assumed conferees on H.R. 2989 would retain the Senate's travel ban amendment. The language was subsequently deleted during conference on H.R. 2989, removing the veto threat. The amendment, offered by Senator Byron Dorgan, was adopted by voice vote on October 23, 2003 by voice vote. Earlier in debate, the Senate failed to table the amendment (vote #405, 36-59)

Annual and Stand-Alone Pay Adjustments¹¹

1975-1990

With enactment of the 1975 Act, Members of Congress were entitled to annual pay adjustments. Those pay adjustments were given to Members at the same rate and on the same effective date as annual comparability raises granted to General Schedule federal employees. Since this method was authorized, Congress has accepted five such raises for itself (in 1975, 1979 (partial), 1984, 1985, and 1987) and declined 10 (1976, 1977, 1978, 1980, 1981, 1982, 1983, 1986, 1988, and 1989). In 1979, Members declined the full 7% proposed increase for them, approving instead only a 5.5% increase.

In 1982, Congress rejected a proposed 4% increase for Members, while allowing federal workers to receive it. However, Congress approved a 15% increase, for Representatives only, in 1982. In 1983, this increase was separately voted for Senators. This increase represented a partial catch-up of previous annual increases that Congress had foregone. Effective February 1, 1990, Congress, in stand-alone legislation, restored the denied FY1989 and FY1990 adjustments for Representatives and Senators, and, additionally, the FY1988 annual adjustment for Senators. These restorations were made pursuant to the 1989 Ethics Reform Act. In that Act, Congress also approved a 25% increase for Representatives, effective January 1, 1991.

1991-Present

Previously, the annual adjustment for Members and other federal officials, unless modified by Congress, was the same rate as the annual comparability adjustment applicable to GS federal employees. The Ethics Reform Act of 1989 changed the method by which the annual adjustments are determined for senior federal officials, including Members of Congress. Effective in 1991, each annual adjustment is to be based of the rate of change of certain elements in the Employment Cost Index (ECI), less one-half of one percent. Adjustments are to be based on the change in the ECI from December to December. No annual adjustment is to be less than zero or greater than 5%. For the purposes of the Act, the ECI means the quarterly index of wages and salaries paid to private industry workers, as published by the Bureau of Labor Statistics. The effective date is the first pay period in January of any given year.

Under the new method, Congress received a 3.6% annual adjustment effective in January 1991, 3.5% in January 1992, 3.2% in January 1993, 2.3% in January 1998, 3.4% in January 2000, 2.7% in January 2001, 3.4% in January 2002, 3.1% in January 2003, and 1.5% in January 2004.

Congress denied the annual adjustments scheduled to take effect in January 1994 (2.1%), 1995 (2.6%), 1996 (2.3%), 1997 (2.3%), and 1999 (3.1%). Even had

¹¹ See Table 1 for payable rates, effective dates, and statutory authorities.

Congress not denied the scheduled January 1994 adjustment of 2.1%, Members still would not have received the increase, since in other legislation Congress denied the January 1994 annual adjustment to General Schedule federal workers.¹² Under provisions of the 1989 Ethics Reform Act, the effective date of an annual pay adjustment for Members is linked to the effective date of the General Schedule annual pay adjustment.¹³ Since the General Schedule adjustment was denied, there was no effective date for either General Schedule or federal officials, including Members of Congress. Hence, there could not be a pay adjustment for federal officials.

In 1994, Congress also statutorily prohibited Members of Congress from receiving in the future an annual percentage increase greater than the annual percentage increase in the *basic* pay of General Schedule federal employees.¹⁴ *Basic* pay is that rate before a locality pay adjustment is added. Although General Schedule employees receive locality pay, Members of Congress do not.

Citizens' Commission on Public Service and Compensation

Pay Commission Procedure: Establishment in 1967

In 1967, Congress established a commission procedure to provide for salary recommendations every 4 years for top-level executive, judicial, and legislative officials, including Members of Congress.¹⁵ The commission was named the Commission on Executive, Legislative, and Judicial Salaries. Seven commissions have met and made recommendations to the President since this method was established. These commissions met in 1968, 1972, 1976, 1980, 1984, and 1988. A special one-time commission met in 1986. Only three times was an increase ultimately allowed: in 1969, 1977, and 1987.

Pay Commission Procedure: Changes in 1989

In 1989, Congress amended the commission procedure in the Ethics Reform Act (P.L. 101-194) transferring the authority and responsibilities of the Commission on Executive, Legislative, and Judicial Salaries to the Citizens' Commission on Public Service and Compensation. The first Citizens' commission was to be appointed during FY1993 (October 1, 1992, to September 30, 1993). The President was to submit his pay recommendations to Congress in January 1994. Although scheduled to meet in calendar year 1993, the commission's funding was rescinded by the

¹² P.L. 103-123, 107 Stat. 1262, Oct. 28, 1993, Section 615, Treasury, Postal Service, and General Government Appropriations Act, FY1994 (H.R. 2403).

¹³ 5 U.S.C. 5303.

¹⁴ P.L. 103-356, 108 Stat. 3410, Oct. 13, 1994, Sec. 101(1), To Provide a More Effective, Efficient, and Responsive Government (S. 2170).

¹⁵ P.L. 90-206, 81 Stat. 642-645, Dec. 16, 1967, Sec. 225, Postal Revenue and Federal Salary Act (H.R. 7977).

FY1994 Treasury and General Government Appropriations Act.¹⁶ Commissions are to be appointed every fourth fiscal year. None has been appointed since 1988.

Although the pay commission procedure still remains technically a method for increasing Members' pay, in practice there currently appears to be no plan to use the procedure in the near future.

Timing of Commission's Recommendations. By law, each commission is to report its recommendations to the President at a date designated by him, but not later than December 15, after the close of the fiscal year in which the commission is appointed.

Timing of President's Recommendations. Upon receipt of the commission's recommendations, the President is required to submit to Congress his own recommendations the following January, on the first Monday after January 3. The President is not required to submit recommendations at the same time as the budget submission, a requirement under the former commission procedure.

Guidelines for President's Recommendations. The President's pay recommendations are to be those that he "considers to be fair and reasonable in light of the commission's report and recommendations, the prevailing market value of the services rendered in the offices and positions involved, the overall economic condition of the country, and the fiscal condition of the Federal Government."¹⁷ The Ethics Reform Act added the last three conditions to the commission procedure. The first condition originated with establishment of the commission procedure in 1967.

Congressional Consideration of President's Recommendations. To take effect, the President's recommendations must be approved in a bill or joint resolution by a recorded vote in each House and enacted into law. His recommendations must be approved in their entirety and without modification. Although Congress is not required to act on the President's recommendations within a specific time, the Ethics Reform Act provides for expedited consideration if the majority leader or designee of either House offers a privileged joint resolution of approval. This resolution must be offered within 60 calendar days of the President's submission of recommendations to Congress, including the date of transmittal.

Effective Date of Recommendations Under Commission Procedure. Both the commission and the President must submit effective dates for their recommendations. However, the Act specifies that, before any salary adjustments under the commission procedure take effect, there must be an intervening election of Representatives after congressional approval of the recommendations. Hence, any pay adjustment must take effect in the Congress following the Congress that approved the change.

¹⁶ P.L. 103-123, 107 Stat. 1239, Oct. 28, 1993, Treasury and General Government Appropriations Act, FY1994 (H.R. 2403).

¹⁷ P.L. 101-104, 103 Stat. 1716, Nov. 30, 1989, Sec. 704, Ethics Reform Act of 1989 (H.R. 3660).

Further, the Act stipulates that the earliest a recommendation may become effective is January 1 after an election of Representatives; the latest date a submitted recommendation may become effective is on the last day (December 31) of the end of fourth year following that January 1. In other words, if the President had submitted his recommendations in January 1994 (the first time possible under the present commission procedure) and his recommendations had been approved before the November 1994 election, the effective date could have been anytime between January 1, 1995, and December 31, 1998. This language allows the commission and the President flexibility to recommend that salary adjustments be spread out over a period of up to 4 years.

The Ethics Reform Act also provides that any other salary adjustment enacted into law for federal officials, including Members of Congress, take effect in the Congress following that in which the adjustment was approved. This provision affects not only a salary adjustment proposed under the commission procedure, but also any other salary adjustment initiated by Congress, *except for the annual COLA adjustments*.

Congressional Action on Members' Pay in Recent Years

The following summaries discuss actions on Member salary by Congress beginning with 1987 to the present.

Congressional Pay Action in the 100th Congress: 1987-1988

- Salary increase of 15.6% in 1987 pursuant to the pay commission
- Congressional disapproval of the scheduled October 1987 adjustment
- Congressional disapproval of the scheduled October 1988 adjustment

Salary Increase of 15.6% in 1987 Pursuant to the Pay Commission.

On January 5, 1987, the President transmitted to Congress his FY1988 budget message, along with his pay recommendations, based upon findings of the FY1987 Commission on Executive, Legislative, and Judicial Salaries. Among the President's recommendations was a 15.6% pay increase for Members of Congress.

Although both houses disapproved the President's recommendations, joint action was not completed by the end of the 30-day disapproval period. The Senate passed a disapproval resolution (S.J.Res. 34) on January 29; later the same day, it attached the same pay disapproval language to the FY1987 Emergency Food and Shelter Program Appropriations (H.J.Res. 102, P.L. 100-6). The House accepted the Senate-passed pay disapproval language when it agreed to Senate amendments to H.J.Res. 102 on February 4. Since the disapproval action of the House transpired after the deadline for a joint disapproval of the President's recommendations (midnight February 3), the pay increase for Members and other federal officials took

effect on February 4, 1987 (P.L. 100-6).¹⁸ As a result, the salary of Members was increased from \$77,400 to \$89,500 per annum.

The Senate agreed to repeal the pay increase (S.J.Res. 42) on February 4, and later attempted two other rescissions: first, in an amendment to H.R. 588 (Urgent Relief for the Homeless) on April 9; and second, in an amendment to H.J.Res. 324 (Public Debt Limit Increase) on July 31. However, these two amendments failed.

Legal Action to Block Pay Increase Pursuant to Pay Commission.

On June 30, 1987, a U.S. District Court judge dismissed a lawsuit that sought to declare unconstitutional the procedures established for determining the salary of federal officials, including Members of Congress, under the quadrennial pay commission procedure.¹⁹ Plaintiffs also claimed that the House acted in a timely manner to join the Senate in blocking salary recommendations the President sent to Congress on January 5. Plaintiffs held that, although the recommendations were sent to Congress on January 5, the proposals were not officially received until Congress convened on January 6, making the 30-day deadline for disapproval action midnight February 4, instead of midnight February 3. The disapproval action of the House, they argued, was therefore timely. The court did not agree. Subsequently, on May 12, 1988, the District Court opinion was upheld by the U.S. Court of Appeals. The case was appealed to the U.S. Supreme Court, which, on November 28, 1988, refused to consider the appeal.

Congressional Disapproval of Scheduled October 1987 Adjustment.

In 1987, Congress voted to exclude Members and other federal officials from the adjustment scheduled for October 1, 1987. The exclusion was made applicable to those federal officials earning a salary at the rate of pay equal to Executive Schedule Level V and above (\$72,500 or more). Other federal employees were authorized a 2% increase, postponed from October 1, 1987, to January 1, 1988.

The prohibition was included in P.L. 100-202, which was signed into law on December 22, 1987.²⁰ The pay provision was passed by the House on December 3 and by the Senate on December 11, 1987.

Earlier attempts to deny the increase died in conference on other legislation, H.R. 3545, FY1988 Budget Reconciliation. On October 29, the House approved a 3% increase for all federal employees, including Members and other federal officials in H.R. 3545. On December 10, the Senate passed H.R. 3545, with language prohibiting an adjustment for Members of Congress and other federal officials. Subsequently, both pay provisions in the differing versions of H.R. 3545 were dropped in conference.

¹⁸ P.L. 100-6, 101 Stat. 94, Feb. 12, 1987, Sec. 3, Emergency Food and Shelter Program Appropriations Act (H.J.Res. 102).

¹⁹ *Humphrey v. Baker*, 848 F.2d 211 (D.C. Cir. 1988), 65 F. Supp. 23 (D.D.C. 1987).

²⁰ P.L. 100-202, 101 Stat. 1329, Dec. 22, 1987, Sec. 110, Continuing Appropriations, FY1988 (H.J.Res. 395).

Congressional Disapproval of Scheduled October 1988 Adjustment.

In 1988, both houses again voted to prohibit the scheduled October 1, 1988, adjustment for Members of Congress and certain other federal officials. The exclusion was made applicable also to those officials earning a salary at the rate of pay equal to Executive Schedule Level III and above (\$82,500 or more). Other federal employees were authorized a 4.1% increase, including Executive Schedule Levels IV and V employees, postponed to January 1, 1989.

The prohibition was included in H.R. 4775 (P.L. 100-440, FY1989 Treasury Department, U.S. Postal Service, Executive Office of the President, and Certain Independent Agencies Appropriations Act).²¹ The House passed the bill on June 14, 1988, with language prohibiting the adjustment for Members and other top-level federal officials, while providing a 4% increase for other federal employees. On June 27, the Senate passed H.R. 4775 with two pay provisions: (1) prohibiting the adjustment for Members of Congress only, while providing a 4% increase for other federal employees; and (2) requiring approval by joint resolution and by recorded vote of any pay increase for Members, including any pay increase amendments initiated in conference on H.R. 4775. Conferees agreed to language prohibiting the adjustment for Members and federal officials earning the rate of pay of Executive Schedule Level III and above, while providing for a 4.1% increase for other federal employees. Conferees deleted the recorded vote requirement.

Congressional Pay Action in the 101st Congress: 1989-1990

- Congressional disapproval of President's proposal for 1989 increase under the commission procedure
- Congressional disapproval of the scheduled October 1989 annual adjustment
- Congressional approval of pay increases for 1990 and 1991 in the Ethics Reform Act of 1989 Congressional linkage of Members' pay with other officials' salaries
- Senate adoption of amendment reducing Members' pay.

Congressional Disapproval of President's Proposal for 1989 Increase Under the Commission Procedure. On October 1, 1988, the seventh quadrennial Commission on Executive, Legislative, and Judicial Salaries was activated pursuant to P.L. 90-206. On December 15, the commission recommended that Members' salaries be adjusted from \$89,500 to \$135,000 annually. It further recommended that Congress pass legislation and that each House modify its Code of Ethics to abolish honoraria as a permissible source of outside earned income, effective when the new salary rates took effect. The proposed honoraria prohibition was applicable to senior officials in all three branches, including Members.

²¹ P.L. 100-440, 102 Stat. 1756, Sept. 22, 1988, Sec. 620, Treasury Department, U.S. Postal Service, Executive Office of the President, and Certain Independent Agencies Appropriations Act, FY1989 (H.R. 4775). Hereafter, the bill is referred to as the Treasury and Independent Agencies Bill.

On January 9, 1989, the President submitted to Congress his salary proposals pursuant to the recommendations of the commission. He recommended a 50.8% salary increase for Members of Congress. The increase was scheduled to go into effect automatically on February 8 unless both houses disapproved before that date. Since both Houses agreed to a resolution of disapproval on February 7, the proposed salary increase for Members, as well as other senior federal officials, did not take effect.

On February 2, 1989, the Senate considered S.J.Res. 7 disapproving all the President's recommendations. The Senate agreed (95-5) to a substitute in the nature of an amendment, with provisions: (1) disapproving the President's pay recommendations for Members and other senior federal officials in the legislative, executive, and judicial branches; (2) rescinding the salary increase proposed by the President for Members and other senior federal officials (except federal judges), should S.J.Res. 7 not be approved before the 30-day deadline under the commission procedure (midnight February 7); (3) requiring that any future proposed salary adjustment for Members be approved in a joint resolution (relating to salaries of Members only) by recorded vote; and (4) amending P.L. 90-206 to require that the President's salary recommendations take effect the first day of the first pay period that begins after the end of the 30-day period for congressional consideration. The Senate agreed (voice vote) to S.J.Res. 7, as amended, the same day. Subsequently, on February 7, the Senate agreed to H.J.Res. 129 disapproving the President's recommendation, superseding passage of S.J.Res. 7.

After agreeing to S.J.Res. 7, the Senate agreed to S.J.Res. 40, prohibiting the receipt of honoraria by Members, officers, and employees of the Senate, effective on or after the first day that any salary increase took effect for these individuals pursuant to the President's recommendations of January 9. The resolution allowed payment on a Member's behalf of honoraria to charitable organizations, each payment limited to \$2,000, and disallowed the accrual of personal tax benefits.

On February 6, the House rejected (238-88) a motion to adjourn. Opponents of the motion and of the pending salary increase for Members sought to force a direct vote on the pay issue before the midnight February 7 deadline. On February 7, the House agreed (380-48) to H.J.Res. 129 disapproving all the President's salary recommendations. Subsequently, the same day, the Senate agreed (94-6) to H.J.Res. 129, and the resolution was signed into law.²² Since both houses disapproved before the deadline, the salary recommendations did not go into effect.

On February 8, 1989, the Senate indefinitely postponed S.J.Res. 6, a pending resolution also disapproving the President's salary recommendations for Members and other senior federal officials in the three branches.

Congressional Disapproval of the Scheduled October 1989 Annual Adjustment. In 1989, both houses voted to exclude Members of Congress from the scheduled October 1, 1989, adjustment. The exclusion also was made applicable to

²² P.L. 101-1, 103 Stat. 3, Feb. 7, 1989, Disapproval of President's Pay Recommendations (H.J.Res. 129).

those federal officials earning a salary at the rate of pay of Executive Schedule Level II and above (\$89,500 or more). Other federal employees were authorized a 3.6% increase, postponed to January 1, 1990.

The prohibition was included in P.L. 101-136, FY1990 Treasury and Independent Agencies Appropriations Act.²³ The prohibition language was contained in the bill as reported to the House on July 25. H.R. 2989, with the pay prohibition language intact, was passed by the House on July 28 and by the Senate on August 4.

Congressional Approval of Pay Increases in 1990 and 1991 in the Ethics Reform Act of 1989. Early in the 101st Congress, House leadership appointed a ten-Member Ethics Task Force to conduct a comprehensive review of House ethics rules and regulations. Among other issues, the task force examined honoraria and outside earned income, acceptance of gifts, ethics committee procedures, financial disclosure, and use of official resources. During the course of its considerations, the task force also studied issues relating to pay of Members of Congress and other federal officials.

As a result of the Task Force's work, several provisions relating to pay were included in the Ethics Reform Act of 1989 (H.R. 3660), sent to the House November 15. The ethics and pay package was passed by the House the following day and by the Senate the next day. The House agreed to Senate amendments on November 18. H.R. 3660 became law on November 30, 1989.²⁴ With regard to Members' salaries, the Act restored recently denied annual adjustments to their salaries, effective February 1, 1990. The Act also provided for a 25% salary increase for federal officials, except Senators, effective January 1, 1991. These adjustments follow:

Pay of Representatives. The Ethics Reform Act restored the previously denied 1989 and 1990 annual adjustments (4.1% and 3.6%), compounded to 7.9%, effective February 1, 1990, and provided for a 25% pay increase, effective January 1, 1991. As a result, the pay of Representatives increased from \$89,500 to \$96,600 on February 1, 1990, and increased to \$125,100 on January 1, 1991, reflecting the 25% increase compounded with a 3.6% annual adjustment.²⁵

²³ P.L. 101-136, 103 Stat. 820-821, Sec. 619, Nov. 3, 1989, FY1990 Treasury and Independent Agencies Appropriations Act (H.R. 2989).

²⁴ P.L. 101-194, 103 Stat. 1716, Nov. 30, 1989, Ethics Reform Act of 1989, Sec. 701(a)-(k), Citizens' Commission on Public Service and Compensation; Section 701(i), Linkage of Member Pay with Executive Schedule Level II and U.S. District Court Judges under the Commission Procedure; Section 702, Restoration of Comparability Adjustments for Representatives and Other Senior Federal Officials, Except Senators and Senate Party Leaders; Section 703, Provision for 25 Percent Salary Increase for Representatives and Other Senior Federal Officials, except Senators and Senate Party Leaders; Section 704, Revision in Method by Which Annual Pay Adjustments for Top-Level Federal Officials, Including Members of Congress, Are to Be Made (using Employment Cost Index); and Section 1101, Restoration of Comparability Adjustments for Senators and Senate Party Leaders.

²⁵ The Ethics Reform Act of 1989 provided that the annual adjustment restorations take
(continued...)

Pursuant to the Act, Representatives are prohibited from accepting honoraria and are limited to 15% of salary in other forms of outside earned income, effective January 1, 1991.²⁶

Pay of Senators. The Ethics Reform Act restored the previously denied 1988, 1989, and 1990 annual adjustments (2%, 4.1%, and 3.6%), compounded to 9.9%, effective February 1, 1990. As a result, the pay of Senators increased from \$89,500 to \$98,400 on February 1, 1990.

The Act did not provide for any other specific pay increase for Senators. They, as well as Representatives, received a 3.6% adjustment, effective January 1, 1991. The pay of Senators increased then from \$98,400 to \$101,900. The Ethics Act decreased permissible 1990 honoraria from the 1989 limit of 40% to 27% of salary.

The pay raise from \$89,500 to \$98,400 did not take effect until February 1990; accordingly, for January 1990, Senators could have earned 40% of their \$89,500 salary in honoraria (or \$2,983.33 for that month). For the rest of 1990, while paid at a rate of \$98,400, they could have earned 27% of that in honoraria (\$24,354), for total 1990 permissible honoraria earnings of \$27,337.33.

The Ethics Reform Act also stipulated that future Senate pay raises be accompanied by a dollar-for-dollar decrease in permissible honoraria until the honoraria limit was less than, or equal to, 1% of a Senator's salary, which would then result in prohibiting the acceptance of honoraria.

Members' Pay Statutorily Linked to Other Officials. Notwithstanding the Senate's action regarding its own pay, the Ethics Reform Act further requires that the President's recommendations reflect the same salary rates for Members of Congress as Level II of the Executive Schedule, a judge of a U.S. District Court, and a judge of the U.S. Court of International Trade.²⁷

Senate Adoption of Amendment Reducing Members' Pay. On September 26, 1990, the Senate adopted an amendment to the committee substitute amendment to S. 110, Family Planning Amendments, reducing the pay of Members

²⁵ (...continued)

effect on the pay period beginning after the Sequestration Order of Oct. 16, 1989, was rescinded. On Dec. 19, 1989, the President signed the Omnibus Budget Reconciliation Act, FY1990, which provided that for purposes of the Ethics Act, the Sequestration Order of Oct. 16, 1989, was deemed to be rescinded on Jan. 31, 1990. Hence, the effective date for the annual adjustments restorations was the pay period beginning on or after Feb. 1, 1990.

²⁶ Until then, the law stipulated that in 1990 Representatives could earn 30% (\$26,850) of their 1989 salary (\$89,500) in outside earned income, including honoraria.

²⁷ Additionally, the Act specified that salary recommendations must be equal for two other groups of positions. First, salaries are to be the same for the Speaker of the House, the Vice President, and the Chief Justice of the United States. Second, salaries are to be the same for the majority and minority leaders of the House and Senate, President pro tempore of the Senate, and Level I of the Executive Schedule.

corresponding to the percentage reduction of pay of federal employees who were furloughed or otherwise had their pay reduced resulting from a sequestration order.

Later that same day, the Senate rejected a motion to invoke cloture (limit debate) on the committee substitute amendment, as amended with the Member pay reduction language. Subsequently, S. 110 was pulled from further consideration on the Senate floor by its sponsor.

Congressional Pay Action in the 102nd Congress: 1991-1992

- Senators' pay increase of 3.6% under annual adjustment in January 1991
Representatives' pay increase of 29.5% under the 1989 Ethics Reform Act in January 1991
- Senators' pay increase of 22.8% under stand-alone legislation in August 1991
Representatives' and Senators' pay increase of 3.5% under annual adjustment in January 1992
- House and Senate recognition of ratification of Twenty-Seventh Amendment to the Constitution

Senators' Pay Increase of 3.6% Under Annual Adjustment of January 1991. Senators received a 3.6% annual adjustment increase in January 1991, increasing their pay from \$98,400 to \$101,900. The adjustment was made pursuant to the 1989 Ethics Reform Act.

Representatives' Pay Increase of 29.5% Under the 1989 Ethics Reform Act in January 1991. Effective January 1, 1991, Representatives received a 25% increase, pursuant to the 1989 Ethics Reform Act, and a 3.6% annual adjustment. Their salary was increased from \$96,600 to \$125,100 per annum. The new figure represents the 25% increase compounded with the 3.6% increase.

Senators' Pay Increase of 22.8% Under Stand-Alone Legislation. On July 17, 1991, the Senate voted to increase its pay from \$101,900 to \$125,100, the same pay as that of Representatives. The Senate also voted to prohibit receipt of honoraria by Senators and limit their outside earned income to 15% of salary. The provisions were contained in an amendment to H.R. 2506, the FY1992 Legislative Branch Appropriations Act, and became effective upon enactment of the bill on August 14 (P.L. 102-90).²⁸

Representatives' and Senators' Pay Increase of 3.5% Under Annual Adjustment in January 1992. In January 1992, Representatives and Senators received the second annual adjustment under the 1989 Ethics Reform Act, increasing their salary by 3.5%, from \$125,100 to \$129,500.

House and Senate Recognition of Ratification of Twenty-Seventh Amendment to the Constitution. In May 1992, both houses adopted resolutions recognizing ratification of the Twenty-Seventh Amendment, which provides that a

²⁸ P.L. 102-90, 105 Stat. 450-451, Aug. 14, 1991, Legislative Branch Appropriations Act, FY1992 (H.R. 2506).

pay increase for Members shall not take effect until an intervening election has occurred. The amendment had been certified officially on May 18, 1992, by the U.S. Archivist and published in the *Federal Register* on May 19. The House adopted H.Con.Res. 320 on May 20, and the Senate adopted both S.Con.Res. 120 and S.Res.298 on May 20.

Congressional Pay Action in the 103rd Congress: 1993-1994

- Members' receipt of 3.2% annual adjustment in January 1993
- Senate adoption of sense of Senate resolution denying the scheduled January 1994 annual adjustment
- Congressional disapproval of scheduled January 1994 annual adjustment
- Congressional disapproval of scheduled January 1995 annual adjustment

Members' Receipt of 3.2% Annual Adjustment in January 1993.

Members received a 3.2% annual adjustment under the 1989 Ethics Reform Act in January 1993. Their pay was increased from \$129,500 to \$133,600.

Senate Adoption of Sense of Senate Language Denying the Scheduled January 1994 Annual Adjustment. On February 24, 1993, the Senate adopted non-binding sense of the Senate language denying the scheduled 2.1% January 1994 pay adjustment for Senators only. The language was added as an amendment (voice vote) to S.Res. 71, a Senate committee funding resolution.

Congressional Disapproval of Scheduled January 1994 Annual Adjustment. Both houses agreed to deny the scheduled 2.1% annual adjustment scheduled for January 1994. On March 3, 1993, the Senate adopted an amendment to S. 382, the Emergency Unemployment Compensation Act, that denied the increase.²⁹ The House agreed to the Senate amendment on March 4, and the legislation was signed into law later the same day.³⁰

Even if Congress had not given approval to the pay language of S. 382, Members still would not have received the January 1994 annual adjustment. This was the case because Congress, in other legislation, had already denied the January 1994 annual adjustment to General Schedule federal workers.³¹ Under provisions of the 1989 Ethics Reform Act, the effective date of an annual pay adjustment for Members is linked to the effective date of the General Schedule annual pay

²⁹ Before passage, the Senate substituted the language of S. 382, as amended, in H.R. 920, the House version of the Emergency Unemployment Compensation bill.

³⁰ P.L. 103-6, 107 Stat. 35, Mar. 4, 1993, Sec. 7, Elimination of Cost of Living Adjustment for Members of Congress in 1994, Emergency Unemployment Compensation Act (S. 382).

³¹ P.L. 103-123, 107 Stat. 1262, Oct. 28, 1993, Sec. 615, Treasury and Independent Agencies Appropriations Act, FY1994 (H.R. 2403).

adjustment.³² Since the General Schedule adjustment was denied, there was no effective date for either General Schedule or federal officials, including Members of Congress. Hence, there could not be a pay adjustment for federal officials.

Congressional Disapproval of Scheduled January 1995 Annual Adjustment. Both houses agreed to language denying the scheduled January 1995 2.6% annual adjustment. On June 15, 1994, the House passed language denying the increase in H.R. 4539, the Treasury and Independent Agencies Appropriations Act, FY1995. The pay provision was reported by the House Appropriations Committee (H.Rept. 103-534). The Senate passed H.R. 4539, with the pay provision, on June 22. The bill was signed into law, P.L. 103-329, on September 30, 1994.³³

Congressional Pay Action in the 104th Congress: 1995-1996

- Senate agreement to language assuming a freeze in Members' pay for 7 years
- Congressional disapproval of January 1996 annual adjustment
- Senate approval of amendment denying payment of salary to Members during a federal government shutdown
- Congressional disapproval of January 1997 annual adjustment

Senate Agreement to Language Assuming a Freeze in Members' Pay for Seven Years. On May 25, 1995, the Senate agreed to an amendment to H.Con.Res. 67, the Budget Resolution for FY1996, which assumed a freeze in the pay of Members at its current level of \$133,600 for 7 years. The pay provision, which was reported by the Senate Appropriations Committee (S.Rept. 104-82), was dropped in conference with the House in June. Had the provision been retained, it would have been advisory only. It would not have had the force of law.

Congressional Disapproval of January 1996 Annual Adjustment. Both houses voted to deny the scheduled January 1996 adjustment of 2.3% in Members' pay. An amendment denying the adjustment was adopted in the Senate on August 5, 1995 (voice vote). The amendment was offered to the Treasury, Postal Service, Executive Office of the President and General Government Appropriations Bill³⁴ for FY1996 (H.R. 2020). Later that day, the Senate passed H.R. 2020 (voice vote) with the pay prohibition. On September 8, 1995, the House agreed (387-31) to a motion to instruct House conferees on H.R. 2020 to agree to the Senate amendment prohibiting the 2.3% increase. On November 15, 1995, both houses

³² 5 U.S.C. 5303.

³³ P.L. 103-329; 108 Stat. 2424; Sept. 30, 1994, Treasury and Independent Agencies Appropriations Act, FY1995 (H.R. 4539).

³⁴ Hereafter, referred to as the Treasury and General Government Appropriations bill. Beginning with FY1996, the name of the appropriations bill was changed to Treasury, Postal Service, Executive Office of the President, and General Government.

agreed to the conference report, and H.R. 2020 was signed into law, P. L. 104-52, on November 19, 1995.

Senate Approval of Amendment Denying Payment of Salary to Members During a Federal Government Shutdown. The Senate voted to prohibit Members of Congress and the President from receiving their pay during a federal government shutdown. Retroactive pay was prohibited as well. On September 22, 1995, the Senate adopted (voice vote) this provision as an amendment to the District of Columbia Appropriations Bill, FY1996, S. 1244. The text of S. 1244 was substituted for the text contained in H.R. 2546. The pay provision was deleted in conference. Members were paid during the November 14-19, 1995, and December 16, 1995-January 5, 1996, shutdowns because their pay is automatically funded in a permanent appropriation. The shutdowns occurred in the wake of vetoes; Congress and the President had not approved any of the regular annual appropriations bills by the October 1, 1995, deadline, had not agreed on a continuing resolution providing stop-gap funds for federal government operations, and had not agreed to lift the federal debt ceiling.

Congressional Disapproval of January 1997 Annual Adjustment. Both houses voted to deny the scheduled January 1997 adjustment of 2.3% in Members' pay. A House amendment denying the adjustment for Members, senior executive branch officials, and federal judges was adopted on July 16, 1996 (352-67). The amendment was offered to the Treasury and General Government Appropriations Bill, FY1997 (H.R. 3756).

The Senate agreed to a floor amendment to H.R. 3756, prohibiting the adjustment for just Members of Congress and members of the President's cabinet. Earlier, H.R. 3756 was reported to the Senate by the Committee on Appropriations on July 23, 1996, without the House-passed pay prohibition of an adjustment for Members, executive officials, and federal judges. Subsequently, conferees agreed to language prohibiting the scheduled January 1, 1997, pay increase for those individuals.

Both houses agreed to the conference report on H.R. 3610, the Omnibus Continuing Appropriations bill, FY1997, with the conference provisions of H.R. 3756, the Treasury and General Government Appropriations bill, FY1997. H.R. 3610 was signed into law, P.L. 104-208, on September 30, 1996.

Congressional Pay Action in the 105th Congress: 1997-1998

- Members' receipt of 2.3% annual adjustment in January 1998
- Senate disapproval of January 1998 annual adjustment
- Congressional disapproval of January 1999 annual adjustment

Members' Receipt of 2.3% Annual Adjustment in January 1998. Members received a 2.3% annual adjustment in January 1998, increasing their pay from \$133,600 to \$136,700. Under the formula established by the 1989 Ethics Reform Act, Members were originally scheduled to receive a 2.9% increase. They, however, received the lesser adjustment because by law they may not receive an annual adjustment which is a greater percentage increase than the percentage increase

in the *basic* pay of the General Schedule employees. The basic pay increase for the General Schedule was limited to 2.3% by President Clinton in August 1997.

Senate Disapproval of January 1998 Annual Adjustment. On July 17, 1997, the Senate adopted an amendment to prohibit the scheduled adjustment. The amendment was offered to S. 1023, the FY1998 Treasury and General Government Appropriations bill. The amendment did not apply to other top-level federal officials.

The House version of the Treasury and General Government Appropriations bill, H.R. 2378, was silent on the issue. The House passed H.R. 2378 (231-192) on September 17, 1997. Later that day, the Senate amended H.R. 2378 to include the language of its version in the nature of a substitute and then passed the bill. The bill, with the pay prohibition, was sent to the House.

On September 24, 1997, the House disagreed with the Senate substitute amendment and agreed to a conference. After lengthy discussion on the merits of a pay adjustment for Members, the House voted to order the previous question on a pending motion to instruct conferees on an issue unrelated to the pay issue. Because the House permits only one motion to instruct conferees, and because ordering the previous question precludes amendment to the pending question, this vote in effect foreclosed the possibility of instructing conferees to omit the pay adjustment from the conference report.

As a result of this vote, H.R. 2378 was sent to conference by the House without instructions to prohibit the pay adjustment. Subsequently, the Senate language denying the increase was dropped in conference, and H.R. 2378 was signed into law, P.L. 105-61, on October 10, 1997, without the pay prohibition language. The adjustment became effective in January 1998.

Congressional Disapproval of January 1999 Annual Adjustment. Congress prohibited the scheduled January 1999 annual 3.1% adjustment³⁵ in H.R. 4104, Treasury and General Government Appropriations bill, FY1999. The conference version of H.R. 4104, with the pay increase prohibition, was incorporated in P.L. 105-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, FY1999 (H.R. 4328).³⁶

³⁵ The annual pay adjustment was determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the percentage change reflected in the fourth quarter (ending Dec. 31) of the 2 preceding years, minus 0.5%. The scheduled January 1999 adjustment was 3.4%, determined by taking the percentage increase in the index between the fourth quarter 1996 and the fourth quarter 1997, which was 3.9%, and subtracting 0.5%. However, by law, Members may not receive an annual adjustment which is a greater percentage increase than the percentage increase of the basic pay of General Schedule employees (P.L. 103-356, 108 Stat. 3410, Oct. 13, 1994). Basic pay is the pay before locality pay is added. Since General Schedule employees were capped at a 3.1% basic pay increase in January 1999, Members were limited to 3.1%.

³⁶ H.R. 4328 was the FY1999 Department of Transportation and Related Agencies Appropriations bill. It became the vehicle in conference for eight of the 13 regular appropriations bills, and other legislative matters, and was renamed the Omnibus (continued...)

On July 15, 1998, the House agreed (218-201) to H.Res. 498, the rule providing for consideration of H.R. 4104. The rule waived points of order against language prohibiting a 1999 annual adjustment (Section 628 of the bill) for failure to comply with Rule XXI, clause 2. This clause prohibits language in an appropriation bill that changes existing law. The effect of the rule was to ensure that the pay prohibition would not be procedurally challenged on the floor during debate on H.R. 4104. This did not preclude an amendment from being offered on the floor to challenge the prohibition.

Such an amendment was offered, but rejected (79-342) on July 16, 1998. The amendment sought to strike Section 628 of H.R. 4104, which prohibited the scheduled adjustment. On the same day, July 16, the House passed H.R. 4104 (218-203), with the pay prohibition language.

On July 28, the Senate adopted (voice vote) an amendment on Member pay to S. 2312, the Senate version of the FY1999 Treasury and General Government Appropriations bill. The amendment made the pay prohibition language in S. 2312 the same wording as the pay prohibition language in H.R. 4104. S. 2312, as reported earlier (S.Rept. 105-251), contained language prohibiting the January 1999 pay adjustment. The Senate passed H.R. 4101 (91-5) on September 3, 1998, as amended, in lieu of S. 2312, with the pay prohibition language.

On October 1, 1998, the House failed (106-294) to agree to H.Res. 563, the rule waiving points of order against consideration of the conference report on H.R. 4104 (H.Rept. 105-294). As a result, the report was recommitted to conference. The pay prohibition language was not discussed during consideration of the rule.

Six days later, on October 7, the House agreed (290-137) to the conference report on H.R. 4104, with the pay prohibition language. The Senate failed to reach agreement on adoption of the conference report. Subsequently, the report language was incorporated in H.R. 4328, the FY1999 Omnibus Consolidated and Emergency Supplemental Appropriations bill.

On October 20, the House agreed (333-95) to the conference report accompanying H.R. 4328, with the pay prohibition language. The following day, October 21, the Senate also agreed (65-29) to the conference report. H.R. 4328 was signed into law, P.L. 105-277, on October 21, 1998. As a result, Members will not receive the annual adjustment of 3.1% scheduled for January 1999. Had they received the increase, their salary would have increased from \$136,700 to \$140,900.

Congressional Pay Action in the 106th Congress: 1999-2000

- Members receipt of 3.4% annual adjustment in January 2000
- House vote to deny consideration of an amendment to prohibit the January 2000 pay adjustment

³⁶ (...continued)

Consolidated and Emergency Supplemental Appropriations Act, 1999 (P.L. 105-277, 112 Stat. 2681, Oct. 21, 1998).

- House vote accepting language reducing the 3.4% January 2000 annual adjustment by 0.97%
- Members receipt of a 2.7% increase in January 2001
- House vote to deny consideration of an amendment to prohibit the January 2001 pay adjustment
- Senate vote to reject the conference report on the FY2001 Legislative Branch Appropriations bill in part because of the pending Member pay adjustment in January 2001

Members Receipt of 3.4% Annual Adjustment in January 2000.

Members received a 3.4% annual adjustment in January 2000, under the 1989 Ethics Reform Act, which increased their salary to \$141,300 from \$136,700.³⁷

House Vote to Deny Consideration of an Amendment to Prohibit the January 2000 Pay Adjustment. On July 14, 1999, several Members testified before the House Rules Committee seeking a waiver of House rules to offer an amendment blocking a Member pay raise to H.R. 2490, the FY2000 treasury and general government appropriations bill.³⁸ The Committee however voted not to include the waiver language. The following day, July 15, the House agreed (276-147) to order the previous question on a rule (H.Res. 246) providing for consideration of H.R. 2490. Had the House not ordered the previous question, a Member could have offered to amend the rule so as to permit a pay raise vote in some form during consideration of the bill. Under the terms of H.Res. 246, as adopted, an amendment seeking to halt the pay raise was not in order. In effect, the vote to order the previous question (and not allow any amendment to the rule) was a vote to accept a pay increase.³⁹

House Vote Accepting Language Reducing the 3.4% January 2000 Annual Adjustment by 0.97%. On October 28, 1999, the House rejected (11-417) an attempt to recommit the conference report on an appropriations bill, H.R. 3064, to instruct House managers to disagree with pay reduction language. (H.Rept. 106-419, October 27, 1999, Division C (Rescissions and Offsets), Section 1001(e)). The pay language in the report reduced the scheduled 3.4% January 2000 Member pay adjustment by 0.97%.

³⁷ The annual pay adjustment was determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the percentage change reflected in the fourth quarter (ending Dec. 31) of the 2 preceding years, minus 0.5%. The 3.4% adjustment was determined by taking the percentage increase in the Index between the quarters ending Dec. 1997 and Dec. 1998, which was 3.9%, and subtracting 0.5%.

³⁸ The amendment would have blocked the pay of Members only, and not the pay of other top-level federal officials.

³⁹ By ordering the previous question, the House voted to prevent an amendment to the rule from being offered and bring the rule to an immediate vote. An amendment to the rule could have waived points of order and permitted an amendment to the bill prohibiting a pay increase. Although H.Res. 246 was an open rule that allowed germane amendments, an amendment prohibiting a pay adjustment would not have been germane.

The conference report on H.R. 3064, the FY2000 District of Columbia, Departments of Labor, Health and Human Services, and Education Appropriations bill, also contained separate language a government-wide across-the-board rescission of 0.97% in discretionary budget authority for FY2000.

The House agreed to the conference report on October 28, with both the pay and across-the-board discretionary budget authority reduction provisions intact. The provisions did not take effect; H.R. 3064 was vetoed by the President on November 3, 1999.

Although a subsequent appropriations bill, H.R. 3194, contained a 0.38% government-wide across-the-board rescission in discretionary budget authority for FY2000, H.R. 3194 did not contain language reducing the 3.4% January 2000 increase in pay for Members of Congress. H.R. 3194, the FY2000 Consolidated Appropriations Act, was signed into law on November 29, 1999 (P.L. 106-113).

Members Receipt of a 2.7% Annual Adjustment in January 2001.

Members received a 2.7% salary adjustment in January 2001, which increased their salary to \$145,100 from \$141,300. Under the formula established in the 1989 Ethics Reform Act, they were to receive a 3.0% salary increase. Their adjustment was limited to 2.7% because by law Members can not receive an increase greater than the increase in the basic pay of General Schedule federal employees. Because the annual *basic* pay adjustment GS employees was 2.7% in January 2001, Members received the lower figure.⁴⁰

The scheduled January 2001 increase for Members was determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the percentage change reflected in the fourth quarter (ending December 31) of the two preceding years, minus 0.5%.⁴¹ The adjustment of 3.0% was derived by taking the percentage increase from the quarter ending December 1998 and the quarter ending December 1999, which was 3.5% and subtracting 0.5%.

House Vote to Deny Consideration of an Amendment to Prohibit the January 2001 Pay Adjustment. On July 20, 2000, the House agreed (250-173) to order the previous question on a rule (H.Res. 560) providing for consideration of H.R. 4871, the FY2001 Treasury, Postal Service, and General Government Appropriations bill. Had the House not ordered the previous question, a Member could have offered to amend the rule so as to permit a pay raise vote in some form during consideration of the bill. Under the terms of H.Res. 560, as adopted, an amendment seeking to halt the pay raise was not in order. In effect, the vote to order

⁴⁰ By law, Members may not receive an annual adjustment which is a greater percentage increase than the percentage increase of the *basic* pay of General Schedule employees (P.L. 103-356, 108 Stat. 3410, Oct. 13, 1994). *Basic* pay is the pay rate before locality pay is added.

⁴¹ The formula is based on the percentage change reflected in the fourth quarter (ending Dec. 31) of the 2 preceding years, minus 0.5%. The Employment Cost Index component used is private industry wages and salaries, not seasonally adjusted.

the previous question (and not allow any amendment to the rule) was a vote to accept a pay increase.⁴²

Senate Vote to Reject the Conference Report on the FY2001 Legislative Branch Appropriations Bill in Part Because of the Pending Member Pay Adjustment in January 2001. On September 20, 2000, the Senate rejected (28-69) the conference report on H.R. 4516, the FY2001 Legislative Branch Appropriations bill; the conference report also contained the FY2001 Treasury and General Government Appropriations bill. The report was rejected in part because Senators had not had a chance to introduce an amendment to the FY2001 Treasury bill to prohibit the scheduled January 2001 pay raise.⁴³ Amendments were not allowed because the Treasury bill was added to H.R. 4516 in conference before it could be considered on the Senate floor. Since the Treasury bill is the legislation to which Members customarily offer amendments to prohibit scheduled pay increases, some Senators felt that they were denied an opportunity to introduce an amendment to block the scheduled January 2001 pay increase. They also felt that they were denied the opportunities to debate the merits of a raise and conduct a vote.⁴⁴

On December 14, 2000, the text of the FY2001 Treasury and General Government Appropriations bill was introduced as H.R. 5658, which was not considered by either house, but incorporated by reference in H.R. 4577, the FY2001 Omnibus Consolidated Appropriations bill (P.L. 106-554).

Congressional Pay Action in the 107th Congress: 2001-2002

- Members receipt of a 3.4% annual adjustment in January 2002
- House vote to deny consideration of an amendment to prohibit the January 2002 pay adjustment
- Senate action to sustain a point of order against an amendment prohibiting the scheduled January 2002 pay adjustment
- Senate vote to sustain a point of order that an amendment to prohibit Members from receiving the January 2002 increase was not germane
- Members receipt of a 3.1% increase in January 2003
- House vote to deny consideration of an amendment to prohibit the January 2003 pay adjustment
- Senate vote to table an amendment to block the January 2003 pay adjustment

⁴² By ordering the previous question, the House voted to prevent an amendment to the rule from being offered and bring the rule to an immediate vote. An amendment to the rule could have waived points of order and permitted an amendment to the bill prohibiting a pay increase. Although H.Res. 560 was an open rule that allowed germane amendments, an amendment prohibiting a pay adjustment would not have been germane.

⁴³ Sen. Paul Wellstone, remarks in the Senate, *Congressional Record*, daily edition, vol. 146, Sept. 19, 2000, pp. S8739-S8741.

⁴⁴ *Ibid.*

Members Receipt of a 3.4% Annual Adjustment in January 2002.

Members received an annual automatic salary adjustment of 3.4% in January 2002, which increased their salary to \$150,000.⁴⁵ Since this increase was lower than the scheduled January 2002 General Schedule (GS) employee basic⁴⁶ pay increase of 3.6%, the scheduled Member pay percentage was not reduced as it was in January 2001. By law, the annual pay adjustment for Members can not exceed that of the basic pay of General Schedule (GS) federal employees. In addition, GS employees received a locality pay increase; Members do not receive locality pay.

House Vote to Deny Consideration of an Amendment to Prohibit the January 2002 Pay Adjustment. On July 25, 2001, the House agreed (293-129) to order the previous question on a rule (H.Res. 206) providing for consideration of H.R. 2590, the FY2002 Treasury, Postal Service, and General Government Appropriations bill. Had the House not ordered the previous question, a Member could have offered to amend the rule so as to permit a pay raise vote in some form during consideration of the bill. Under the terms of H.Res. 206, as adopted, an amendment seeking to halt the pay raise was not in order. In effect, the vote to order the previous question (and not allow any amendment to the rule) was a vote to accept a pay increase.⁴⁷

Senate Action to Sustain a Point of Order Against an Amendment Prohibiting the Scheduled January 2002 Pay Adjustment. On October 24, 2001, the Senate presiding officer sustained a point of order against an amendment, offered by Senators Russell Feingold and Max Baucus, to block the pending January 2002 salary increase. The Senate sustained the point of order because the amendment was not germane under Senate Rule 16, and as a result, the amendment fell. The action was taken during consideration of H.R. 2506, the FY2002 foreign operations, export financing, and related programs appropriations bill.

Senate Vote to Sustain a Point of Order That an Amendment to Prohibit Members from Receiving the January 2002 Increase Was Not Germane. On December 7, 2001, the Senate sustained (33-65) a point of order that an amendment offered by Senator Russell Feingold to prohibit Members from receiving the January 2002 increase was not germane, and the amendment fell. The amendment was offered during floor consideration of H.R. 3338, the FY2002 Department of Defense appropriations bill.

⁴⁵ The annual pay adjustment was determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the percentage change reflected in the fourth quarter (ending Dec. 31) of the 2 preceding years, minus 0.5%. The 3.4% adjustment was determined by taking the percentage increase in the Index between the quarters ending Dec. 1999 and Dec. 2000, which was 3.9%, and subtracting 0.5%.

⁴⁶ *Basic* pay is the pay rate before locality pay is added.

⁴⁷ By ordering the previous question, the House voted to prevent an amendment to the rule from being offered and bring the rule to an immediate vote. An amendment to the rule could have waived points of order and permitted an amendment to the bill prohibiting a pay increase. Although H.Res. 206 was an open rule that allowed germane amendments, an amendment prohibiting a pay adjustment would not have been germane.

Members Receipt of 3.1% Salary Increase in January 2003. In January 2003, Members received an automatic annual adjustment of 3.1%, increasing their salary to \$154,700 from \$150,000. Although authorized to receive 3.3% under the automatic annual adjustment procedure,⁴⁸ Members were legally prohibited from receiving an annual adjustment greater than the increase in basic pay of GS federal employees, which was 3.1%.

The scheduled 3.1% basic pay adjustment for GS employees could have been changed by the President through August 31, 2002. Since the President did not implement an alternate adjustment, the scheduled 3.1% adjustment took effect in January 2003.⁴⁹

House Vote to Deny Consideration of an Amendment to Prohibit the January 2003 Pay Adjustment. On July 18, 2002, the House agreed (224-188, vote #323) to order the previous question on a rule (H.Res. 488) providing for consideration of H.R. 5120, the FY2003 Treasury Appropriations bill. Had the House not ordered the previous question, a Member could have offered to amend the rule so as to permit a pay raise vote in some form during consideration of the bill. Under the terms of H.Res. 488, as adopted, an amendment seeking to halt the pay raise was not in order. In effect, the vote to order the previous question (and not allow any amendment to the rule) was a vote to accept a pay increase.⁵⁰

Senate Vote to Table an Amendment to Block the January 2003 Pay Adjustment. On November 13, 2002, the Senate agreed (58-36, vote #242) to a motion to table an amendment offered by Senator Russell Feingold to H.R. 5005, the homeland security bill, to block the pending January 2003 salary increase for Members. The amendment did not apply to other top-level federal officials

Congressional Action in the 108th Congress: 2003-2004

- Members receipt of a 3.1% annual adjustment in January 2003
- Members receipt of a 1.5% annual adjustment in January 2004

Members Receipt of a 3.1% Annual Adjustment in January 2003. In January 2003, Members received an adjustment of 3.1%, increasing their salary to

⁴⁸ The annual pay adjustment was determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the percentage change reflected in the fourth quarter (ending Dec. 31) of the two preceding years, minus 0.5%. The 3.3% adjustment was determined by taking the percentage increase in the Index between the quarters ending Dec. 2000 and Dec. 2001, which was 3.8%, and subtracting 0.5%.

⁴⁹ For language on alternative adjustments by a President, see 5 U.S.C. 5303.

⁵⁰ By ordering the previous question, the House voted to prevent an amendment to the rule from being offered and bring the rule to an immediate vote. An amendment to the rule could have waived points of order and permitted an amendment to the bill prohibiting a pay increase. Although H.Res. 488 was an open rule that allowed germane amendments, an amendment prohibiting a pay adjustment would not have been germane.

\$154,700 from \$150,000. They were scheduled to receive a 3.3% adjustment.⁵¹ By law, however, they were limited to the rate of increase in the basic pay of General Schedule (GS) employees of 3.1%.

Members Receipt of 1.5% Annual Adjustment in January 2004. In January 2004, Members received an automatic annual salary adjustment of 1.5%. Members were scheduled to receive a 2.2% adjustment under the annual comparability formula,⁵² but were limited by law to the annual increase in the basic pay of GS federal employees, which was 1.5%. GS employees additionally received a locality pay increase. Members do not receive locality pay.

House Vote During Consideration of Rule on H.R. 2989, FY2004 Treasury Appropriations. Some press accounts have reported that the House voted on September 4, 2003, to accept a Member pay increase while considering the rule on H.R. 2989, the FY2004 transportation and treasury appropriation bill. H.R. 2989 did not contain language regarding the salary of Members, nor did the House vote on an amendment to accept or reject a Member pay increase. House action on vote #463 (240-173), however, is considered by some to be approval of an increase since the vote had the effect of not allowing Members to offer and consider nongermane amendments to the bill.⁵³ They argue that if nongermane amendments had been allowed, one could have been offered to modify or deny the scheduled 2.2% Member pay increase. This action, some believe, means that most Members voted for the raise. Others expressed interest in introducing other nongermane amendments on unrelated issues, and, as a consequence, some Members believe that it cannot be

⁵¹ The annual pay adjustment was determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the percentage change reflected in the fourth quarter (ending Dec. 31) of the two preceding years, minus 0.5%. The 3.3% adjustment was determined by taking the percentage increase in the Index between the quarters ending Dec. 2000 and Dec. 2001, which was 3.8%, and subtracting 0.5%.

⁵² The annual pay adjustment was determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the percentage change reflected in the fourth quarter (ending Dec. 31) of the two preceding years, minus 0.5%. The 2.2% adjustment was determined by taking the percentage increase in the Index between the quarters ending Dec. 2001 and Dec. 2002, which was 2.7%, and subtracting 0.5%.

⁵³ On Sept. 4, 2003, the House agreed (240-173, vote #463) to order the previous question on a rule (H.Res. 351) providing for consideration of H.R. 2989, the FY2004 transportation and treasury appropriations bill. By ordering the previous question, the House voted to prevent an amendment to the rule from being offered, and to bring the rule to an immediate vote. An amendment to the rule could have waived points of order so as to permit an amendment to the bill prohibiting a pay increase. Although H.Res. 351 was an open rule that allowed any germane amendment, an amendment to prohibit the pay adjustment would not have been germane. By agreeing to order the previous question, Members voted not to consider an amendment to permit a pay raise prohibition to be offered. Had the House not agreed to a motion to order the previous question, a Member could have offered an amendment to the rule permitting a pay raise vote in some form. Under the terms of H.Res. 351, as adopted, an amendment seeking to halt the pay raise was not in order.

said with any degree of certainty that Members would have voted to accept a pay increase if they had been given an opportunity.

Senate Vote to Table an Amendment to Block the January 2004 Pay Adjustment. On October 23, 2003, the Senate agreed (60-34, vote #406) to a motion to table an amendment offered by Senator Russell Feingold to H.R. 2989, the FY2004 transportation and treasury appropriation bill, to block the pending January 2004 salary increase for Members. The amendment did not apply to other top-level federal officials.

Table 1. Salaries of Members of Congress, 1789-2004

Payable Salary^a	Effective Date	Statutory Authority
\$1,500 ^b	March 4, 1789	1 Stat. 70-71 (September 22, 1789)
\$1,500 ^b	March 4, 1795	1 Stat. 70-71 (September 22, 1789)
\$1,500 ^b	March 3, 1796	1 Stat. 448 (March 10, 1796)
\$1,500	December 4, 1815	3 Stat. 257 (March 19, 1816)
\$1,500 ^b	March 3, 1817	3 Stat. 345 (February 6, 1817)
\$2,000 ^b	March 3, 1817	3 Stat. 404 (January 22, 1818)
\$3,000	December 3, 1855	11 Stat. 48 (August 16, 1856)
\$3,000 ^c	December 23, 1857	11 Stat. 367 (December 23, 1857)
\$5,000	December 4, 1865	14 Stat. 323 (July 28, 1866)
\$7,500	March 4, 1871	17 Stat. 486 (March 3, 1873)
\$5,000	January 20, 1874	18 Stat. 4 (January 20, 1874)
\$7,500	March 4, 1907	34 Stat. 993 (February 26, 1907)
\$10,000	March 4, 1925	43 Stat. 1301 (March 4, 1925)
\$9,000	July 1, 1932	47 Stat. 401 (June 30, 1932)
\$8,500	April 1, 1933	48 Stat. 14 (March 20, 1933)
\$9,000 ^d	February 1, 1934	48 Stat. 521 (March 28, 1934)
\$9,500 ^d	July 1, 1934	48 Stat. 521 (March 28, 1934)
\$10,000	April 4, 1935	49 Stat. 24 (February 13, 1935)
\$12,500	January 3, 1947	60 Stat. 850 (August 2, 1946)
\$22,500	March 1, 1955	69 Stat. 11 (March 2, 1955)

Payable Salary^a	Effective Date	Statutory Authority
\$30,000	January 3, 1965	78 Stat. 415 (August 14, 1964)
\$42,500	March 1, 1969	81 Stat. 642 (December 16, 1967)
\$44,600	October 1, 1975	89 Stat. 421 (August 9, 1975)
\$57,500	March 1, 1977	81 Stat. 642 (December 16, 1967)
\$60,662.50	October 1, 1979	89 Stat. 421 (August 9, 1975)
\$69,800	December 21, 1982 for Representatives; July 1, 1983 for Senators	96 Stat. 1914 (December 21, 1982) 97 Stat. 338 (July 30, 1983)
\$72,600	January 1, 1984	89 Stat. 421 (August 9, 1975)
\$75,100	January 1, 1985	89 Stat. 421 (August 9, 1975)
\$77,400	January 1, 1987	89 Stat. 421 (August 9, 1975)
\$89,500	February 4, 1987	81 Stat. 642 (December 16, 1967)
\$96,600 ^e (Representatives)	February 1, 1990	103 Stat. 1767-1768 (November 30, 1989)
\$98,400 ^e (Senators)	February 1, 1990	103 Stat. 1767-1768 (November 30, 1989)
\$125,100 (Representatives)	January 1, 1991	103 Stat. 1768-1769 (November 30, 1989)
\$101,900 (Senators)	January 1, 1991	103 Stat. 1769 (November 30, 1989)
\$125,100 (Senators)	August 14, 1991	105 Stat. 450 (August 14, 1991)
\$129,500 (Representatives and Senators)	January 1, 1992	103 Stat. 1769 (November 30, 1989)
\$133,600 (Representatives and Senators)	January 1, 1993	103 Stat. 1769 (November 30, 1989)
\$136,700 (Representatives and Senators)	January 1, 1998	103 Stat. 1769 (November 30, 1989)

Payable Salary^a	Effective Date	Statutory Authority
\$141,300 (Representatives and Senators)	January 1, 2000	103 Stat. 1769 (November 30, 1989)
\$145,100 (Representatives and Senators)	January 1, 2001	103 Stat. 1769 (November 30, 1989)
\$150,000 (Representatives and Senators)	January 1, 2002	103 Stat. 1769 (November 30, 1989)
\$154,700 (Reps. and Sens.)	January 1, 2003	103 Stat. 1769 (November 30, 1989)
\$157,000 (Reps. And Sens.)	January 1, 2004	103 Stat. 1769 (November 30, 1989)

- a. From 1976 to 1983, the salary actually paid to Members was less than the salary to which Members were entitled. This was so because Members were entitled to salaries authorized pursuant to the annual comparability pay procedure (P.L. 94-82). However, on several occasions Congress did not appropriate funds to pay any or some of the new salary increases mandated by P.L. 94-82. Accordingly, the salaries shown in this table are the payable rates, the salaries actually paid to Members of Congress.
- b. Per diem rates have been converted to per annum rates based on a hypothetically possible 250 day session. From 1789 to 1856, Senators and Representatives received a per diem allowance while Congress was in session, except for the period December 1815-March 1817, when they received \$1,500 a year. First established at \$6 a day (\$7 for Senators during special sessions for 1795 only), the per diem was raised to \$8 in 1818 and remained there until 1856, when Members of Congress were placed on annual salaries.
- c. In 1857, Congress provided for pay at the rate of \$250 per month while in session, or a maximum of \$3,000 per annum.
- d. The Act authorized the restoration of February 1, 1934, and the restoration of July 1, 1934.
- e. The Ethics Reform Act of 1989 (103 Stat. 1767-1768) increased the pay for Representatives and Senators at different rates. The pay of Representatives was increased to reflect the previously denied 1989 and 1990 COLAs (4.1% and 3.6%) compounded to 7.9%, effective February 1, 1990. The Act further provided for a 25% pay increase in Representatives' pay, effective January 1, 1991. As a result, the pay of Representatives increased from \$89,500 to \$96,600 on February 1, 1990, and increased to \$125,100 on January 1, 1991.

The pay of Senators was increased to reflect the previously denied 1988, 1989, and 1990 COLAs (2%, 4.1%, and 3.6%), compounded to 9.9%, effective February 1, 1990. As a result, the pay of Senators increased from \$89,500 to \$98,400 on February 1, 1990. The Ethics Act did not provide for any other pay increase for Senators, as it did in providing a 25% increase for Representatives. This was because Senators elected to deny themselves the 25% increase while retaining the ability to receive honoraria. Subsequently, the Senate voted to increase its pay rate to that of Representatives and to prohibit receipt of honoraria by Senators, effective August 14, 1991. As a result, Senate pay increased from \$101,900 to \$125,100 per annum.