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Salaries of Members of Congress: Congressional Votes, 1990-2004

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Summary

The U.S. Constitution, in Article I, Section 6, authorizes compensation for Members of Congress “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 for 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 on 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 determined by a formula based on certain elements of the Employment Cost Index. Under this revised process, annual adjustments were accepted nine times (scheduled for January 1991, 1992, 1993, 1998, 2000, 2001, 2002, 2003, and 2004) and denied five times (scheduled for January 1994, 1995, 1996, 1997, and 1999).

In January 2004, Members received a 2.2% annual adjustment based on the formula under the annual adjustment procedure, increasing their salary to \$158,100 per annum.

The third method for adjusting Member pay is congressional action pursuant to recommendations from the President, based on the recommendations of the Citizens’ Commission on Public Service and Compensation established in the 1989 Ethics Reform Act. Although the Citizen’s 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.

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Introduction

The automatic annual adjustment for Members of Congress is determined by a formula using a component of the Employment Cost Index, which measures rate of change in private sector pay. The adjustment automatically takes effect unless (1) Congress statutorily prohibits the adjustment; (2) Congress statutorily revises the adjustment; or (3) the annual *basic* pay adjustment of General Schedule (GS) federal employees is established at a rate less than the scheduled increase for Members, in which case Members are paid the lower rate. In any case, Members may not receive an annual pay adjustment greater than 5%.¹

Votes on the annual adjustments since 1990 are contained in this report.

Most Recent Developments

Pending January 2005 Member Pay Increase

Under the annual adjustment procedure, Members are scheduled to receive an increase of 2.5% in January 2005.²

The percentage increase will become official when President Bush issues an executive order in late December, according to the Office of Personnel Management. The President's order will contain his allocation of the pending annual pay increase of 3.5% for GS federal employees for basic pay and for locality pay. Members are limited by law (P.L. 103-356) to an increase no greater than that of the basic pay of GS employees. The 3.5% increase was approved by Congress in H.R. 4818, FY2005 Consolidated Appropriations Act, signed into P.L. 108-447 on December 8, 2004.

¹ P.L. 103-356, 108 Stat. 3410, Oct. 13, 1994.

² 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 December 31) of the two preceding years, minus 0.5%. The 2.5% adjustment was determined by taking the percentage increase in the Index between the quarters ending December 2002 and December 2003, which was 3.0%, and subtracting 0.5%.

The basic pay component of the GS annual pay adjustment must be 2.5% because that is what law mandates, and the President did not issue an alternative pay plan to Congress by November 30 to change this percentage increase.

The President did, however, send an alternative plan to Congress on November 30, 2004, that provided for the 2.5% increase in basic pay, but not recommend a locality pay increase. The President needed to issue the November 30 plan to Congress because otherwise the higher locality pay percentages required by law would have automatically become effective.

The President did not address the pending 3.5% increase approved by Congress in his November 30 plan because he had not yet received the legislation containing the increase (H.R. 4818). He subsequently received and signed H.R. 4818 into law on December 8 (P.L. 108-447). The President now is required to issue an executive order officially allocating the 3.5% between basic pay and locality pay. As a consequence of the President's action, the basic pay increase is scheduled to be 2.5%, leaving 1% for locality pay.

The plan of November 30 assures Members of Congress will receive their scheduled 2.5% annual adjustment, since, by law, Members are limited to no more than the GS basic pay increase. Although Members are authorized under the annual adjustment procedure to receive a 2.5% increase, they would have been limited to a lower increase if the GS basic pay increase had been less than 2.5%. Members do not receive locality pay.

Actions to Modify or Deny the Scheduled Member Pay Increase.

Thus far, one vote potentially relating to the January 2005 Member pay increase has been taken in 2004. On September 21, the House held a vote that although not a direct vote to modify or deny the increase was depicted 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. 5025, the FY2005 Transportation and Treasury Appropriation bill. H.R. 5025, 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. Action taken by the House on vote #451 (235-170), 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.³ They argue that if nongermane amendments

³ On Sept. 14, 2004, the House agreed to order the previous question on the rule (H.Res. 770) providing for consideration of H.R. 5025, the FY2005 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. 770 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

(continued...)

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 had they had been given an opportunity.

In the early fall of 2004, some press accounts led constituents to believe that Members voted to receive a 3.5% increase in January 2005. This belief most likely reflected a confusion with language approved by the House and pending in the Senate providing for a 3.5% combined adjustment in basic pay and locality pay for GS employees.⁴ The increase is not applicable to Members of Congress. Since the basic pay increase for GS employees is limited by formula to 2.5%, unless changed by the President by November 30, 2004, the remainder of the proposed 3.5% increase presumably will be allocated to locality pay, if the legislation is enacted into law. Even if the legislation is enacted into law, Members will be limited to the 2.5%, the GS basic pay increase.

January 2004 Pay Adjustment

Members received an automatic annual adjustment of 2.2% effective the first pay period in January 2004. The adjustment was effective in two stages.

First Adjustment of 1.5%. The first adjustment increased Members' salary by 1.5%, although under the annual procedure they were scheduled to receive a 2.2% adjustment.⁵ Members were initially limited to the 1.5% increase because by law they may not receive an annual adjustment greater than the increase in the *base* pay of GS federal employees. At the time the adjustment was to take effect, which was the first pay period in January 2004, the GS *base* pay increase was limited to 1.5%.

³ (...continued)

rule permitting a pay raise vote in some form. Under the terms of H.Res. 770, as adopted, an amendment seeking to halt the pay raise was not in order.

⁴ Provision for a 3.5% increase is contained in the House version of the FY2005 transportation, treasury, postal service, executive office, general government and related agencies appropriations bill (H.R. 5025, reported July 22, 2004 (H.Rept. 108-671) and passed Sept. 22, 2004). The Senate Subcommittee on Transportation, Treasury, and General Government, Senate Committee on Appropriations, approved a 3.5% GS pay increase during markup of its version of the FY2005 bill (S. 2806) on Sept. 7. The Senate Committee on Appropriations

⁵ 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%.

At the time the 1.5% basic pay increase went into effect for GS employees, legislation was pending that contained a 4.1% GS federal employee pay increase for *basic* and locality pay combined. Passage of that legislation before the effective date of the January 2004 pay increase would have most likely ensured Members received their scheduled 2.2% increase. That would have been possible because the *basic pay* allocation of the 4.1% GS increase was thought likely to be greater than 2.2%, probably about 3.1%. Since the allocation was to be greater than 2.2%, Members would have received their scheduled 2.2% increase on the first pay period in January 2004.

Since the 4.1% GS pay provision had not received final Senate approval nor been signed into law by the first pay period in January 2004, a pending pay plan of the President for GS employees went into effect. The President's plan provided for a 2.2% increase, with 1.5% allocated for basic pay and 0.5% for locality pay.⁶ As a result, Member pay increased by 1.5%, and not 2.2%.

Second Adjustment of 0.7%. The 4.1% GS pay increase provision eventually was signed into law on January 23, 2004 (P.L. 108-199, the FY2004 Consolidated Appropriations Act). As a result, Members received the full 2.2% pay increase, with 0.7% retroactive to the first pay period in January 2004.⁷

Actions to Modify or Deny the Scheduled Member Pay Increase.

Two votes were taken in 2003 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

⁶ 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>].

⁷ The 4.1% provision was originally contained in H.R. 2989, the FY2004 Transportation and Treasury Appropriation bill. H.R. 2989 was incorporated into H.R. 2673, the FY2004 omnibus appropriations bill. The House agreed to the conference report on H.R. 2673 on Dec. 8, and the Senate agreed on Jan. 22, 2004.

Earlier, there was a threat to the pending 4.1% pay increase contained in H.R. 2989, the FY2004 Transportation and Treasury Appropriation bill. 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 Oct. 23, 2003 by voice vote. Earlier in debate, the Senate failed to table the amendment (vote #405, 36-59).

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 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.

January 2003 Pay Adjustment

Since Members statutorily may not receive an annual adjustment greater than the increase in the basic pay of GS federal employees, Members received a 3.1% adjustment in January 2003. Although Members had been scheduled to receive 3.3% under the annual adjustment formula,⁹ the adjustment in basic pay for GS employees was limited to 3.1%.

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.

⁹ 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 3.3% 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%.

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 submit an alternate adjustment, the 3.1% adjustment went into effect in January 2003.¹⁰

Although GS employees also could have received locality pay in January 2003, in addition to the 3.1% basic pay increase, Members could not have, since they do not receive locality pay. By law, the President was required to notify Congress of his intention on locality pay for GS employees by November 30, 2002. On November 27, the President made public his decision not to provide a locality pay adjustment effective January 2003 due to national emergency.

There were votes in both houses of Congress on the pending January 2003 annual adjustment for Members. On July 18, 2002, the House agreed (258-156) to order the previous question on a rule (H.Res. 488) providing for consideration of H.R. 5120, the FY2003 Treasury, Postal Service, and General Government Appropriations bill. H.Res. 488 was an open rule that allowed any germane amendment; an amendment to prohibit the pay adjustment, however, 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 amendment 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. 488, as adopted, an amendment seeking to halt the pay raise was not in order. In effect a vote to order the previous question (and not allow any amendment to the rule) was a vote to accept the pay raise.

On November 13, 2002, the Senate voted to table an amendment to prohibit the scheduled January 2003 annual adjustment from taking effect for Members. The amendment, which did not apply to other top-level federal officials, was offered to H.R. 5005, the homeland security bill.

Source of Member Pay Appropriations

Some news editorials imply that the regular annual treasury appropriations bill contains funds for the annual pay adjustment for federal employees, including Members. This bill, however, only contains funds for the salaries of those employees on the payrolls of Treasury Department and the other agencies funded in the bill. Salaries of other federal employees are funded in the other twelve appropriations bills. There are no provisions for funding the salaries of Member in the Treasury and General Government Appropriations bill. Member salaries are funded in a permanent appropriations account of the legislative branch in the *Federal Budget*.

Use of the Treasury appropriations bill as a vehicle to prohibit the annual pay adjustments for Members developed by custom. A prohibition on Member pay could be offered to any bill, or be introduced as a separate bill.

¹⁰ For language on alternative adjustments by a President, see 5 U.S.C. 5303.

Application of the 27th Amendment to the Annual Adjustments

Some observers have also indicated that the 27th Amendment to the Constitution applies to an increase under the Ethics Reform Act of 1989. The amendment states that whenever Congress votes itself a pay increase an election of Representatives must occur before the increase can take effect. U.S. District and Appeals Courts determined in 1992 and 1994, respectively, that the Amendment does not apply to the automatic annual adjustments for Members established by the 1989 Ethics Act.¹¹ This is because these adjustments do not require votes and because Congress is considered to already have voted on future adjustments under this procedure when it voted to establish the automatic mechanism in 1989.

Congressional Votes

1990

Stand-Alone Adjustments. Representatives' pay was increased 7.9%, from \$89,500 to \$96,600, effective February 1, 1990, pursuant to the Ethics Reform Act of 1989.¹² The Act restored the previously denied January 1989 and 1990 annual adjustments (4.1% and 3.6%), compounded. There were no votes regarding this adjustment.

Senators' pay also was increased in the Ethics Act by 9.9%, from \$89,500 to \$98,400, effective February 1, 1990. This increase represented restoration of the previously denied 1988, 1989, and 1990 adjustments (2%, 4.1%, and 3.6%), compounded. There were no votes regarding this adjustment.

Later in 1990, the Senate voted to reduce Member pay in an amendment to S. 110, Family Planning Amendments bill. The House took no such action. Vote summaries of Senate action follow:

- **09/26/90** — The Senate adopted (96-1, vote #254) a Member pay amendment to the Committee on Labor and Human Resources substitute amendment to S. 110. The amendment reduced Member salary by an amount corresponding to the percentage reduction of pay of federal employees who were furloughed or otherwise had their pay reduced resulting from a sequestration order.¹³

¹¹ See 809 F.Supp. 138 (D.D.C. 1992) and 30 F.3d 156 (D.C.Cir. 1994).

¹² P.L. 101-194, 103 Stat. 1716, Nov. 30, 1989, Ethics Reform Act of 1989.

¹³ A sequestration order is a cancellation of part of a federal agency's budget, thereby reducing funds available for expenditure by an agency. Sequestration is determined by the Office of Management and Budget under the Budget Enforcement Act of 1990 and the Omnibus Budget Reconciliation Act of 1993.

- **09/26/90** — The Senate rejected (50-46, vote #256) a motion to invoke cloture (limit debate) on the Committee on Labor and Human Resources substitute amendment, which had been amended to reduce Member pay (vote #254 above). A three-fifths majority vote (60 of the total Senate) is required to invoke cloture. Subsequently, S. 110 was pulled from further consideration on the Senate floor by its sponsor.

Annual Adjustments. Members did not receive the scheduled January 1, 1990, adjustment.¹⁴ No votes were held in 1990 to prohibit the scheduled January 1, 1991, 3.6% adjustment.

1991

Stand-Alone Adjustments. Representatives received a 29.5% increase, effective January 1, 1991, reflecting a 25% increase pursuant to the Ethics Reform Act of 1989 and a 3.6% annual adjustment increase, compounded (from \$96,600 to \$125,100).¹⁵ No votes were taken prohibiting or altering either adjustment.

Subsequently, the Senate voted to increase its pay by 22.8% to the same salary as that of Representatives (\$125,100), in the Legislative Branch Appropriations bill, FY1992 (H.R. 2506). The House agreed to this action.

- **07/17/91** — The Senate adopted (53-45, vote #133) an amendment to H.R. 2506 increasing Senators' pay from \$101,900 to \$125,100, the same as Representatives' pay; banning honoraria for Senators; and limiting their outside earned income to 15% of salary.
- **07/17/91** — The Senate passed (voice vote) H.R. 2506 with the pay provision adopted earlier (see Senate vote #133).
- **07/31/91** — The House agreed (voice vote) to the conference report on H.R. 2506 with Senate pay provision (see Senate vote #133).
- **08/02/91** — The Senate agreed (voice vote) to the conference report on H.R. 2506 with the pay provision (see Senate vote #133). H.R. 2506 was signed into law (P.L. 102-90, 105 Stat. 450-451) August 14, 1991. The pay increase became effective the same day.

¹⁴ In the 1989 Ethics Reform Act, Congress prohibited the annual adjustment scheduled for Jan. 1, 1990.

¹⁵ Upon receipt of the salary increase, Representatives were prohibited from accepting honoraria and were limited to 15% of salary in other forms of outside earned income, effective Jan. 1, 1991. Although not providing Senators with an increase comparable to the 25 % increase for Representatives, the Act decreased permissible 1990 honoraria received by Senators from the 1989 limit of 40% to 27% of salary. Further, the Act 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 one percent of a Senator's salary, which would then result in prohibiting the acceptance of honoraria.

Annual Adjustment. Representatives and Senators received a 3.6% pay increase in January 1991. Senators' pay increased from \$98,400 to \$101,900, and Representatives' pay increased from \$96,600 to \$125,100. Representatives' pay was adjusted by 3.6% and also by the 25% stand-alone adjustment of January 1, 1991. No votes were held in 1991 on these adjustments.

No votes were held in 1991 to deny the scheduled January 1, 1992, annual adjustment of 3.5% for Members.

1992

Annual Adjustment. Under the 1989 Ethics Reform Act, Representatives and Senators received a second annual adjustment of 3.5% on January 1, 1992, increasing their pay from \$125,100 to \$129,500. No votes were held on this increase. No votes were held in 1992 to prohibit the scheduled January 1, 1993 annual adjustment of 3.2% for Members.

Recognition of Ratification of 27th Amendment to the Constitution. Both houses recognized ratification of the 27th Amendment, which provides that a pay increase for Members of Congress shall not take effect until an intervening election has occurred.¹⁶

- **05/20/92** — The House adopted (414-3, vote #131) H.Con.Res. 320, recognizing ratification of the 27th Amendment.
- **05/20/92** — The Senate adopted (99-0, vote #99) S.Con.Res. 120, recognizing adoption of the amendment and adopted (99-0, vote #100) S.Res. 298, also recognizing the amendment's adoption.

1993

Annual Adjustment. On January 1, 1993, Members received an annual adjustment of 3.2%, increasing pay from \$129,500 to \$133,600. No votes were held on this increase.

Votes were held in 1993 to prohibit the scheduled January 1, 1994, annual adjustment during consideration of the Senate Committee Funding Resolution (S.Res. 71) and the Unemployment Compensation Act (S. 382, H.R. 920).

Senate Committee Funding Resolution (S.Res. 71)

¹⁶ The amendment had been certified officially on May 18, 1992, by the U.S. Archivist and published in the Federal Register on May 19, 1992. The pay amendment was among five amendments proposed to the United States Constitution and submitted to the States along with the Bill of Rights on Sept. 25, 1789. These proposed amendments did not contain ratification deadlines. The five amendments had failed to be approved by the necessary three-fourths of the States as provided by Article V of the Constitution, until the pay amendment was finally ratified in 1992.

- **02/24/93** — The Senate adopted (voice vote) an amendment expressing the sense of the Senate that Senators' pay be frozen for eleven months in calendar year 1994. This non-binding language in effect denied the scheduled 2.1% January 1994 annual pay adjustment for Senators.
- **02/24/93** — The Senate adopted (98-0, vote #16) an amendment to the previous amendment (see above) changing the pay freeze period to one year.
- **02/25/93** — The Senate agreed (94-2, vote #20) to S.Res. 71 with the non-binding amendment freezing Senators' pay for one year in calendar year 1994.

Emergency Unemployment Compensation Act (S. 382; H.R. 920)

- **03/03/93** — The Senate adopted (voice vote) an amendment to S. 382 denying the scheduled 2.1% adjustment for Members on January 1, 1994.
- **03/03/93** — The Senate agreed (58-41, vote #23) to a motion to table an amendment to S. 382 prohibiting adjustments for *all* federal employees.
- **03/03/93** — The Senate passed (66-33, vote #24) H.R. 920 with a provision denying the scheduled 2.1% adjustment for Members on January 1, 1994.¹⁷
- **03/04/93** — The House agreed (403-0, vote #54) to a motion to agree to the Senate pay amendment to H.R. 920. H.R. 920 was signed into law (P.L. 103-6, 107 Stat. 35, March 4, 1993, Section 7).

1994

Stand-Alone Adjustment. The Senate rejected a move to reduce Member pay by 15% in S. 1935, Congressional Gifts Reform bill.

- **05/05/94** — The Senate rejected (34-59, vote #103) an amendment to S. 1935 requiring Member pay to be reduced immediately by 15%.

Annual Adjustment. Members did not receive the scheduled January 1, 1994, 2.1% adjustment as a consequence of the votes Congress had taken in 1993 to prohibit the annual adjustment.

Votes were taken to prohibit the scheduled January 1, 1995, 2.6% adjustment in floor debate on H.R. 4539, Treasury and General Government Appropriations bill, FY1995.

¹⁷ Before passage, the Senate substituted the language of S. 382, as amended.

- **06/15/94** — The House passed (276-139, vote #247) H.R. 4539 with a provision denying the scheduled January 1, 1995, 2.6% annual adjustment. The pay provision had been reported by the Appropriations Committee (H.Rept. 103-534).
- **09/27/94** — The House agreed (360-53, vote #411) to the conference report on H.R. 4539 with the provision denying the annual adjustment.
- **09/28/94** — The Senate agreed (voice vote) to the conference report on H.R. 4539 with the provision denying the annual adjustment. H.R. 4539 was signed into law (P.L. 103-329, 108 Stat. 2424, September 30, 1994).

1995

Stand-Alone Adjustment. The Senate voted to freeze Member pay for 7 years in the Budget Resolution, FY1996 (H.Con.Res. 67).

- **05/25/95** — The Senate passed (57-42, vote #232) H.Con.Res. 67, with a freeze on Member pay at the current level of \$133,600 for 7 years. The provision, which was reported by the Appropriations Committee (S.Rept. 104-82), was dropped in conference.

Annual Adjustment. Members did not receive the scheduled January 1, 1995, annual 2.6% adjustment.¹⁸

Congress prohibited the scheduled January 1, 1996, 2.3% adjustment in P.L. 104-52, Treasury and General Government Appropriations Act, FY1996, H.R. 2020.

- **08/05/95** — The Senate agreed (voice vote) to an amendment to H.R. 2020 prohibiting the annual pay adjustment of 2.3% scheduled to take effect in January 1996 for Members. The amendment did not apply to other top-level federal officials scheduled to receive the same 2.3% adjustment in January 1996.
- **08/05/95** — The Senate passed (voice vote) H.R. 2020 with the pay prohibition provision agreed to earlier in the day.
- **09/08/95** — The House approved (387-31, vote #648) a motion to instruct House conferees on H.R. 2020 to agree to the Senate amendment prohibiting the annual 2.3% adjustment scheduled in January 1996 for Members. The House disagreed to other Senate amendments and agreed to a conference.

¹⁸ Congress voted in 1994 to prohibit the annual adjustment scheduled for Jan. 1, 1995.

- **11/15/95** — The House agreed (374-52, vote #797) to the conference on H.R. 2020 with a prohibition of the scheduled January 1996 pay increase.
- **11/15/95** — The Senate agreed (63-35, vote #576) to the conference on H.R. 2020 with a prohibition of the scheduled January 1996 Member pay increase. H.R. 2020 was signed into P.L. 104-52 on November 19, 1995.

Pay of Members During a Federal Government Shutdown. The Senate voted to prohibit Member pay during a federal shutdown.

- **09/22/95** — The Senate adopted (voice vote) an amendment to the Senate version of the District of Columbia appropriations bill, FY1996 (S. 1244) providing that Members not be paid during a government shutdown, nor receive retroactive pay. The 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 because Congress had neither passed regular appropriations bills by the October 1, 1995, deadline, nor agreed to stop-gap funding in a continuing resolution, nor agreed to lift the federal debt ceiling.

1996

Annual Adjustment. Members did not receive the scheduled January 1, 1996, annual 2.3% adjustment.

Votes were taken by Congress to prohibit the scheduled January 1, 1997, annual 2.3% adjustment during consideration of H.R. 3756, Treasury and General Government Appropriations bill, FY1997. The conference version of H.R. 3756, with a pay adjustment prohibition, was incorporated into P.L. 104-208, Omnibus Continuing Appropriations Act, FY1997 (H.R. 3610).

- **07/16/96** — The House agreed (352-67, vote #317) to a floor amendment to H.R. 3756 prohibiting the 2.3% increase scheduled to take effect January 1, 1997, for Members. H.R. 3756 was the FY1997 Treasury and General Government Appropriations bill.
- **07/17/96** — The House passed (215-207, vote #323) H.R. 3756 with the provision prohibiting the annual adjustment for Members.
- **09/10/96** — The Senate agreed to a floor amendment to H.R. 3756 prohibiting the annual pay adjustment of 2.3% for Members. H.R. 3756 was reported to the Senate by the Committee on Appropriations on July 23, 1996 (S.Rept. 104-330) without the House-passed pay prohibition provision. By unanimous consent, the Senate placed H.R. 3756 back on the calendar on September 12,

1996. Subsequently, conferees agreed to language prohibiting the scheduled January 1, 1997, 2.3% pay increase for Members.

- **09/28/96**— The House agreed (370-37, vote #455) to the conference report on H.R. 3610, Omnibus Continuing Appropriations bill, FY1997, with the conference provisions of H.R. 3756, Treasury and General Government Appropriations bill, FY1997. Included in the conference was the prohibition of the 2.3% Member pay adjustment.
- **09/30/96** — The Senate agreed (voice vote) to the conference on H.R. 3610, Omnibus Continuing Appropriations bill, FY1997, with the conference provisions of H.R. 3756. Included in the conference report was the prohibition of the scheduled 2.3% annual adjustment for Members of Congress. H.R. 3610 was signed into P.L. 104-208, on September 30, 1996.

1997

Annual Adjustment. Members did not receive the annual pay adjustment of 2.3% scheduled for January 1, 1997.

Although votes were taken in 1997 on the scheduled January 1, 1998, annual pay adjustment of 2.3%,¹⁹ Congress did not prohibit the adjustment. Salaries increased from \$133,600 to \$136,700 on January 1, 1998.

On July 17, 1997, the Senate adopted an amendment to prohibit the 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 bill was silent on the issue. The House version, H.R. 2378, was passed 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 passed the bill. The bill, with the pay prohibition, was then 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 Member pay adjustment, 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

¹⁹ The 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 .5%. The scheduled adjustment of 2.9% was determined by taking the percentage increase in the Index between the quarters Oct. - Dec. 1995 and Oct. - Dec. 1996 which was 3.4% and subtracting .5%. However, Members were scheduled to receive a lesser adjustment of 2.3% because by law they may not receive an annual adjustment which is a greater percentage increase than the percentage increase of the basic pay of General Schedule employees. The basic pay increase for the General Schedule was limited to 2.3% by the President in Aug. 1997.

House permits only one motion to instruct conferees, and 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 House 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 P.L. 105-61 on October 10, 1997, without the pay prohibition language.

- **07/17/97** — The Senate adopted (voice vote) an amendment prohibiting the scheduled January 1, 1998, annual adjustment for Members of Congress. The amendment was offered to S. 1023, the FY1998 Treasury and General Government Appropriations bill.
- **07/22/97** — The Senate passed (99-0, vote 191) S. 1023 with the provision prohibiting the annual adjustment for Members of Congress.
- **09/17/97** — The Senate passed (voice vote) the House version of the FY1998 Treasury bill, H.R. 2378, after striking all after the enacting clause and substituting the language of S. 1023 as amended to include the pay prohibition.
- **09/24/97** — The House voted (229-199, vote 435) 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 House vote, H.R. 2378 was sent to conference by the House without instructions to prohibit the pay adjustment. Conferees dropped the Senate pay amendment and both Houses agreed to the conference report on September 24, 1997. H.R. 2378 was signed into P.L. 105-61 on October 10, 1997.

1998

Annual Adjustment. Members received the scheduled January 1, 1998, annual pay adjustment of 2.3%, increasing their salary from \$133,600 to \$136,700.

Congress prohibited the scheduled January 1, 1999, annual 3.1% adjustment²⁰ in H.R. 4104, Treasury, Postal Service, and General Government Appropriations bill, FY1999. The conference version of the bill, with the pay increase prohibition, was incorporated in P.L. 105-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, FY1999 (H.R. 4328).²¹

- **07/15/98** — The House agreed (218-201, vote #284) 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. The 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.
- **07/16/98** — The House rejected (79-342, vote #289) an amendment that sought to strike section 628 of H.R. 4104, which prohibited the January 1999 annual pay adjustment.
- **07/16/98** — The House passed (218-203, vote #293) H.R. 4104 with the pay prohibition language.
- **07/28/98** — The Senate adopted (voice vote) an amendment to S. 2312, the Senate version of the FY1999 Treasury Bill, which made the pay prohibition language in S. 2312 the same wording as the pay prohibition language in H.R. 4104. S. 2312, as reported (S.Rept. 105-251), contained language prohibiting the January 1999 pay adjustment.
- **09/03/98** — The Senate passed (91-5, vote #260) H.R. 4104, amended, in lieu of S. 2312, with the pay prohibition language.

²⁰ The annual pay adjustment was determined by a formula based on the Employment Cost Index (the private industry, wages and salaries component) for the fourth quarter (ending Dec.) to the fourth quarter (ending Dec.) for the year 2 years prior, minus .5%. The scheduled Jan. 1999 adjustment was determined by taking the percentage increase in the Index between the quarters Oct. - Dec. 1996 and Oct. - Dec. 1997, which was 3.9%, and subtracting .5%, giving a 3.4% increase. 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 rate before locality pay is added. Since General Schedule employees were limited to a 3.1% *basic* pay increase in Jan. 1999, Members were limited to 3.1%.

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

- **10/01/98** — The House failed to agree (106-294, vote #476) 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.
- **10/07/98** — The House agreed (290-137, vote #494) to the conference report on H.R. 4104, with the pay prohibition language (H.Rept. 105-790). The Senate failed to reach agreement on adoption of the report. Conference report language was incorporated in H.R. 4328, the FY1999 Omnibus Consolidated and Emergency Supplemental Appropriations bill.
- **10/20/98** — The House agreed (333-95, vote #538) to the conference report accompanying H.R. 4328, the FY1999 Omnibus Consolidated and Emergency Supplemental Appropriations bill, with the pay prohibition language.
- **10/21/98** — The Senate agreed (65-29, vote #314) to the conference report accompanying H.R. 4328, with the pay prohibition. H.R. 4328 was signed into P.L. 105-277, on October 21, 1998.

1999

Annual Adjustment. Members did not receive the scheduled January 1, 1999, 3.1% pay adjustment.

Members did receive the scheduled January 1, 2000, annual pay adjustment of 3.4%, increasing their salary to \$141,300 from \$136,700.²² On July 14, 1999, several Members testified before the House Rules Committee seeking parliamentary approval to offer a legislative amendment to H.R. 2490, the FY2000 Treasury and General Government Appropriations bill, that would block a pay increase for Members, while letting it stand for all others. On July 15, the House agreed to the rule providing for consideration of H.R. 2490. Special waiver language was needed in the rule to permit House consideration of an amendment that would prohibit the scheduled January 2000 pay increase. In the absence of such language, a pay amendment was out of order.

- **07/15/99**— The House agreed (276-147, vote #300) to order the previous question on the rule (H.Res. 246) for consideration of H.R. 2490, the FY2000 Treasury and General Government Appropriations bill. H.Res. 246 was an open rule that allowed any

²² The annual pay adjustment was determined by 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 2000 adjustment of 3.4% was determined by taking the percentage increase in the Index between the fourth quarter ending Dec. 31, 1997 and the fourth quarter ending Dec. 31, 1998, which was 3.9%, and subtracting .5%.

germane amendment; an amendment to prohibit the pay adjustment, however, 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 amendment to be offered. Had the House not agreed to order the previous question, Rules Committee Democrats could have offered an amendment to the rule permitting a pay raise vote in some form. Under the terms of H.Res. 246, as adopted, an amendment seeking to halt the pay raise was not in order. In effect a vote to order the previous question (and not allow any amendment to the rule) was a vote to accept the pay raise.

Proposed 0.97% Reduction in Member Pay. On October 28, 1999, the House rejected an attempt to recommit the conference report on an appropriations bill, H.R. 3064, to instruct House managers to disagree with language in the report reducing the scheduled 3.4% January 2000 Member pay adjustment by 0.97%. The conference report on H.R. 3064, the FY2000 District of Columbia, Departments of Labor, Health and Human Services, and Education Appropriations bill, also provided in separate language a government-wide across-the-board rescission of 0.97% in discretionary budget authority for FY2000. Although the House and Senate agreed to the conference report with the pay and discretionary budget authority reduction provisions, H.R. 3064 was vetoed by the President on November 3, 1999.

- **10/28/99** — The House rejected (11-417, vote #548) a motion to recommit the conference report on H.R. 3064, District of Columbia, Departments of Labor, Health and Human Services, and Education Appropriations bill, FY2000, with instructions to House managers to disagree with pay reduction language. Conference report pay language reduced the scheduled 3.4% January 2000 Member pay adjustment by 0.97% (H.Rept. 106-419, October 27, 1999, Division C (Rescissions and Offsets), Section 1001(e)).
- **10/28/99**— The House agreed (218-211, vote #549) to the conference report on H.R. 3064 (see description of bill in vote immediately above), which included language reducing the scheduled 3.4% January 2000 Member pay adjustment by 0.97%. H.R. 3064 was vetoed by the President on November 3, 1999.

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

2000

Annual Adjustment. Members received a scheduled January 1, 2000, annual pay adjustment of 3.4%, which increased their salary to \$141,300 from \$136,700.

Members also received the scheduled January, 2001, annual pay adjustment (modified) of 2.7%, which increased their salary to \$145,100 from \$141,300.²³ On July 20, 2000, the House agreed to the rule providing for consideration of H.R. 4871, the FY2001 Treasury and General Government Appropriations bill. Special waiver language was needed in the rule to permit House consideration of an amendment that would prohibit the scheduled January 2001 pay increase. In the absence of such language, a pay amendment was out of order.

On September 9, 2000, the Senate rejected the conference report on H.R. 4516, the FY2001 Legislative Branch Appropriations bill, in part because previously Senators had not had a chance to introduce an amendment prohibiting the scheduled January 2001 pay increase.

- **07/20/00** – The House agreed (250-173, vote #419) 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. H.Res. 560 was an open rule that allowed any germane amendment; an amendment to prohibit the pay adjustment, however, 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 amendment 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. 560, as adopted, an amendment seeking to halt the pay raise was not in order. In effect a vote to order the previous question (and not allow any amendment to the rule) was a vote to accept the pay raise.
- **09/20/00** – The Senate rejected (28-69, vote #253) 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 conference 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.²⁴ 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

²³ The annual pay adjustment was determined by 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 2001 adjustment was originally 3.0%, and was determined by taking the percentage increase in the Index between the fourth quarter ending Dec. 31, 1998, and the fourth quarter ending Dec. 31, 1999, which was 3.5%, and subtracting 0.5%. However, Members were limited by law to the increase in the basic pay of GS employees, which was 2.7%.

²⁴ Sen. Paul Wellstone, remarks in the Senate, *Congressional Record*, daily edition, vol. 146, Sept. 19, 2000, pp. S8739-S8741.

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.²⁵ 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).

2001

Annual Adjustment. Members received a January 2001 annual pay adjustment of 2.7%, which increased their salary to \$145,100 from \$141,300. Based on the formula used to determine the annual adjustment rate, Members were scheduled to receive 3.0%, but were limited by law to the increase in the basic pay of GS federal employees, which was 2.7%.

In January 2002, Members received a pay adjustment of 3.4%, increasing their salary to \$150,000 from \$145,100. In 2001, there was one vote in each the House and Senate on the pending increase, and a second Senate action in which the Senate presiding officer ruled as not germane an amendment blocking the increase.

The House, on July 25, 2001, agreed to a rule providing for consideration of H.R. 2590, the FY2002 Treasury and General Government Appropriations bill. Special waiver language was needed in the rule to permit House consideration of an amendment that would prohibit the scheduled January 2002 pay increase. In the absence of such language, a pay amendment was out of order.

The Senate presiding officer, on October 24, sustained a point of order against an amendment to the FY2002 foreign operations appropriations bill to block the 2002 increase because the amendment was not germane under Senate Rule 16. On December 7, the Senate sustained (33-65) a point of order that an amendment to prohibit Members from receiving the January 2002 increase was not germane, and the amendment fell. The amendment was offered during Senate consideration of H.R. 3338, the FY2002 Department of Defense appropriation bill.

- **07/25/01** — The House agreed (293-129, vote #267) 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. H.Res. 206 was an open rule that allowed any germane amendment; an amendment to prohibit the pay adjustment, however, 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 amendment 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

²⁵ Ibid.

permitting a pay raise vote in some form. Under the terms of H.Res. 206, as adopted, an amendment seeking to halt the pay raise was not in order. In effect a vote to order the previous question (and not allow any amendment to the rule) was a vote to accept the pay raise.

- **10/24/01** – 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.
- **12/07/01** – The Senate sustained (33-65, voted #360) 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.

2002

Annual Adjustment. Members received a pay adjustment of 3.4% in January 2002, increasing their salary to \$150,000 from \$145,100.

In January 2003, Members received an adjustment of 3.1%, increasing their salary to \$154,700 from \$150,000. They were scheduled to receive a 3.3% adjustment.²⁶ By law, however, they were limited to the rate of increase in the basic pay of General Schedule (GS) employees (3.1%), also effective in January 2003.

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 increase, the scheduled 3.1% was effective in January 2003.²⁷

Both houses held votes related to the scheduled January 2003 annual adjustment for Members. On July 18, 2002, the House agreed to a rule providing for consideration of H.R. 5120, the FY2003 Treasury and General Government Appropriations bill. Special waiver language was needed in the rule to permit House consideration of an amendment that would prohibit the scheduled January 2003 pay increase. In the absence of such language, a pay amendment was out of order.

²⁶ 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%.

²⁷ For language on alternative adjustments by a President, see 5 U.S.C. 5303.

On November 13, 2002, the Senate voted to table an amendment to prohibit the scheduled January 2003 annual adjustment from taking effect for Members of Congress. The amendment was offered to H.R. 5005, the homeland security bill.

- **07/18/02** – The House agreed (258-156, vote #322) to order the previous question on a rule (H.Res. 488) providing for consideration of H.R. 5120, the FY2003 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. 488 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 amendment 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. 488, as adopted, an amendment seeking to halt the pay raise was not in order. In effect a vote to order the previous question (and not allow any amendment to the rule) was a vote to accept a pay increase.
- **11/13/02** – 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.

2003

Annual Adjustment. Members received a pay adjustment of 3.1% in January 2003, increasing their salary to \$154,700 from \$150,000.

In January 2004, Members received a 2.2% adjustment, increasing their salary to \$158,100. Two votes were held that related to the adjustment. Action taken by the House on vote #463 (240-173) was considered by some to be approval of an annual increase since the vote had the effect of not allowing Members to offer and consider nongermane amendments to the bill. 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.

Some Members, however, 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.

On October 23, 2003, the Senate voted to table an amendment to prohibit the scheduled adjustment.

- **09/04/03** – 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, some Members considered the vote to be against consideration of an amendment to permit a pay raise prohibition to be offered. Had the House not agreed to a motion to order the previous question, they argue, 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.
- **10/23/03** – 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.

2004

Annual Adjustment. Members received a pay adjustment of 2.2% in January 2004, increasing their salary to \$158,100 from \$154,700.

One vote potentially relating to the Member pay adjustment scheduled for January 2005 has been taken thus far in 2004. On September 14, the House agreed to a rule providing for consideration of H.R. 5025, the FY2005 Transportation and Treasury Appropriation bill. Special waiver language was needed in the rule to permit House consideration of an amendment that would prohibit the scheduled January 2005 pay increase. In the absence of such language, a pay amendment was out of order.

This House action, 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.²⁸ They argue that if nongermane amendments

²⁸ On September 14, 2004, the House agreed to order the previous question on the rule (H.Res. 770) providing for consideration of H.R. 5025, the FY2005 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. 770 was an open rule that allowed any germane amendment, an amendment to prohibit the pay adjustment would not have been
(continued...)

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 had they had been given an opportunity.

- **09/21/04** – The House agreed (235-170, vote #451) to order the previous question on a rule (H.Res. 770) providing for consideration of H.R. 5025, the FY2005 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. 770 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, some Members considered the vote to be against consideration of an amendment to permit a pay raise prohibition to be offered. Had the House not agreed to a motion to order the previous question, they argue, a Member could have offered an amendment to the rule permitting a pay raise vote in some form. Under the terms of H.Res. 770, as adopted, an amendment seeking to halt the pay raise was not in order.

²⁸ (...continued)

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. 770, as adopted, an amendment seeking to halt the pay raise was not in order.