

CRS Report for Congress

Franking Privilege: An Analysis of Member Mass Mailings in the House, 1997-2007

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Summary

Despite significant reductions in congressional mail postage costs over the past 20 years, critics continue to raise concerns that the franking privilege is both financially wasteful and gives unfair advantages to incumbents in congressional elections. In particular, mass mailings have come under increased scrutiny as critics argue that the vast majority of franked mail is unsolicited and, in effect, publicly funded campaign literature.

This report provides an analysis of House Member mass mailings. A mass mailing is defined by statute as a franked mailing of 500 or more substantially similar pieces of unsolicited mail sent in the same session of Congress. Such mailings are one component of the overall official mail sent by Congress. Other components include Member responses to constituent inquiries, unsolicited Member mailings totaling fewer than 500 pieces, officer and committee mail, and other franked mail.

Between 1997 and 2007, House Members sent 1.24 billion pieces of mass mail at a total postage cost of \$199.3 million, producing a calendar-year average of 112.4 million pieces of mass mail costing an average of \$18.1 million (**Table 1**). Most Representatives sent mass mailings. During each calendar year 1997-2007, an average of 84% of House Members sent at least one mass mailing. Among Members who sent at least one mass mailing, the average annual number of pieces of mail sent by a Member was 304,227 at a postage cost of \$55,308. Member mass mailing costs comprised 87% of all House official mail costs and 75% of overall official congressional mail costs during calendar years 2000-2007 (**Figure 1**).

Although the annual number of pieces of mail sent remained relatively constant between 1997 and 2007, significant quarterly variations occurred within each Congress (**Figure 2**). Above-average totals were observed in the fourth quarter of the first year of each Congress and in the second and third quarters of the second year of each Congress. Below-average totals were observed in the fourth quarter of the second year of each Congress and the first quarter of the first year of each Congress.

These expenditures continue a historical pattern of Congress spending less on official mail costs during non-election years than during election years (**Table 2**). However, analysis of quarterly data on Member mass mailing costs indicates that, due to the structure of the fiscal year calendar, comparisons of election-year and non-election-year mailing data tend to overstate the effect of pre-election increases in mail costs, since they also capture the effect of a large spike in mass mailings from the fourth quarter of the previous calendar year.

This report will be updated annually. See also CRS Report RL34188, *Congressional Official Mail Costs*; CRS Report RS22771, *Congressional Franking Privilege: Background and Current Legislation*; CRS Report RL34274, *Franking Privilege: Historical Development and Options for Change*; and CRS Report RL34085, *Election Year Restrictions on Mass Mailings by Members of Congress: How H.R. 1614 / S. 936 / S. 1285 Would Change Current Law*.

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Introduction

Beginning in 1986, Congress passed several pieces of legislation that placed individual limits on Members' mail costs and required public disclosure of individual Member franking expenditures.¹ These changes helped reduce overall congressional mail postage costs to \$51.9 million during the 109th Congress (2005-2006) from \$177.4 million during the 101st Congress (1987-1988).² Despite the significant reduction in costs, critics continue to raise concerns about the franking privilege.³

In particular, mass mailings — franked mailings of 500 or more substantially similar pieces of unsolicited mail sent by individual Members during the same session of Congress⁴ — have come under increased scrutiny as critics argue that the vast majority of franked mail is unsolicited and, in effect, publicly funded campaign literature.⁵ Since 1997, the House has publicly reported the volume and cost of individual Member mass mailings.

This report provides an analysis of Member mass mailings during the period 1997-2007.⁶ First, it examines aggregate Member mass mailing data to ascertain how many pieces of mass mail were sent by Representatives annually, the total cost of those mailings, the proportion of overall mail costs that Member mass mailings constituted, and the annual percentage of Members who sent at least one mass mailing. Second, quarterly Member mass mailing data is evaluated to see whether there was quarterly variation in Member mass mailing volume and whether the variation reflected cyclical trends. Finally, the question of whether mass mailing volume was higher in election years than in non-election years is considered.

¹ For a historical overview of franking regulations, see CRS Report RL34274, *Franking Privilege: Historical Development and Options for Change*, by Matthew E. Glassman.

² For an overview of official mail cost trends, see CRS Report RL34188, *Congressional Official Mail Costs*, by Matthew E. Glassman.

³ For example, see Grover Norquist, quoted in Emily Yehle, "CRS: Franked Mail Has Cost \$1.4 Billion," *Roll Call*, October 2, 2007, p. 18.

⁴ 39 U.S.C. § 3210(a)(6)(E).

⁵ Andrew H. Wasmund, "Use and Abuse of the Congressional Franking Privilege," *Loyola University of Los Angeles Law Review*, vol. 5 (January 1972), pp. 65-67; Elizabeth Brotherton, "Franking Critics Want Full Disclosure of Costs," *Roll Call*, September 25, 2007, p. 3.

⁶ Other types of official mail sent by the House — including Member responses to constituent inquiries, unsolicited Member mailings totaling fewer than 500 pieces, officer and committee mail, and other franked mail — are not considered.

Methodology

Data Collection. Data on Member mass mailings were compiled using the quarterly *Statements of Disbursement of the House*, which report the number of pieces of mail sent by each Member of the House in mass mailings during the preceding quarter and the total postage cost of the quarter's mass mailings. The unit of analysis is the mail statistic for each Member's office. Therefore, any Congress might contain more or fewer than the typical 440 Members, due to vacancies or to Members elected in special elections to fill vacancies.

Summary Statistics. Mass mailing data were examined for 44 consecutive quarters, from the first quarter of calendar year (CY) 1997 through the fourth quarter of CY2007. The universe of data includes 38,968 observations, half corresponding to the number of pieces sent by an individual Member in a given quarter, and half corresponding to the cost for an individual Member in a given quarter.

Aggregate House Member Mass Mailings, 1997-2007

House Members sent 1.24 billion pieces of mass mail between 1997 and 2007, at a total postage cost of \$199.3 million. As shown in **Table 1**, House Members sent a calendar year average of 112.4 million pieces of mass mail, costing an average of \$18.1 million per year. The total number of mass mail pieces sent by the House has ranged from a low of 98 million pieces in 2007 to a high of 122.6 million in 1997. While total annual costs have risen, constant dollar costs for mass mailings remained relatively stable, ranging from highs of \$16.9 million in 1997 and 2004 to a low of \$14.8 million in 2002.

Table 1. Total Member Mass Mail Pieces Sent and Total Costs, House, CY1997-CY2007
(millions of pieces and dollars)

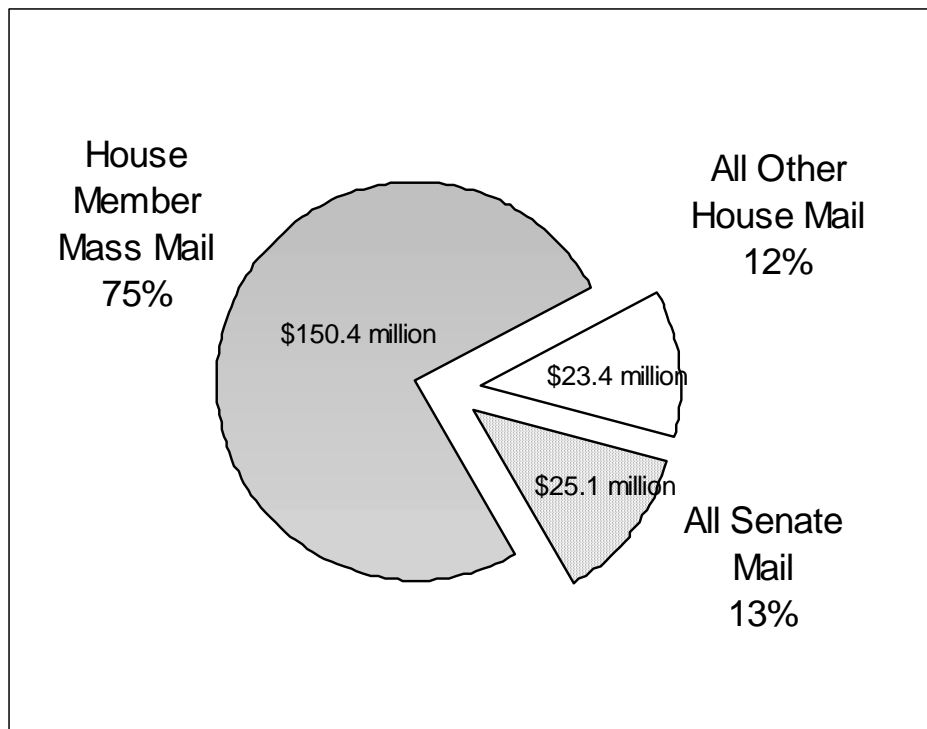
Year	Total Mass Mail Pieces	Total Costs (current dollars)	Total Costs (constant dollars)
1997	122.6	\$16.9	\$16.9
1998	116.4	\$16.3	\$16.0
1999	112.9	\$15.7	\$15.1
2000	112.3	\$17.6	\$16.4
2001	117.1	\$17.9	\$16.2
2002	102.7	\$16.6	\$14.8
2003	110.0	\$18.7	\$16.3
2004	117.1	\$19.9	\$16.9
2005	110.6	\$19.0	\$15.7
2006	116.5	\$20.6	\$16.4
2007	98.0	\$20.1	\$15.6
Totals	1,236.2	\$199.3	\$176.3
Average	112.4	\$18.1	\$16.0

Source: CRS analysis of mass mailing data

An annual average of 84% of House Members sent at least one mass mailing. Among Members who sent at least one mass mailing, the average calendar year number of pieces of mail sent by a Member was 304,227 at a postage cost of \$55,308.

A significant percentage of total official congressional mail costs were Member mass mailing costs. Calendar year data on official mail costs is available beginning with CY2000. As shown in **Figure 1**, 75% of overall official congressional mail postage costs during CY2000-CY2007 were House Member mass mailing costs, totaling \$150.4 million. All other House mail costs were 12% of congressional mail costs (\$23.4 million), whereas total Senate costs (including Member mass mailing costs) were 13% of congressional mail costs (\$25.1 million).

Figure 1. Congressional Mail Postage Costs, CY2000-CY2007



Source: CRS analysis of mass mailing data and U.S. Postal Service data.

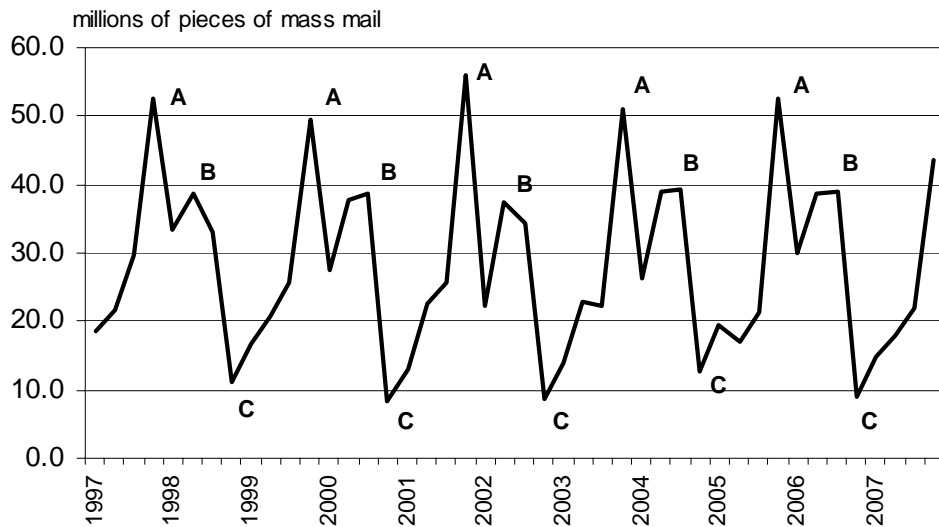
Quarterly Variation in Member Mass Mail Rates

Although the overall amount and cost of House mass mailing remained relatively constant between 1997 and 2007, significant variations occurred within these years. As shown in **Figure 2**, the total number of pieces of mass mail sent by House Members produced an eight-quarter cyclical pattern over the past 10 years, corresponding to the two-year cycle of each Congress.

If the timing of mass mailing was evenly distributed, one would expect 12.5% of total mass mailing to have occurred in each of the eight quarters of each Congress. As shown in **Figure 2**, that is not the case; significant peaks and valleys occur in quarterly mass mailing.

Above-average totals are observed in the fourth quarter of the first year of each Congress (marked as 'A' in **Figure 2**), as well as in the second and third quarters of the second year of each Congress (marked as 'B'). The highest peak occurs in the fourth quarter of the first year, when 24.7% of all pieces of mass mail are sent. Although mass mailing data is not available by month, monthly data on overall official mail costs indicate that almost all of the fourth quarter spike is due to a large amount of mail sent in December, at the end of the first session.

Figure 2. Pieces of Mass Mail Sent, by Quarter, 1997 to 2007



Source: CRS analysis of mass mail data

Increased mailings in the second and third quarters (15.5% and 15.0% of the total) of the second year of each Congress corresponds to the period just prior to the 90-day pre-election prohibited period in which Members are not allowed to send mass mailings. In particular, mass mail sent in the third quarter of the second year of any Congress (July-September) must be sent during the first month of the quarter, prior to the beginning of the prohibited period in early August. Thus, the above-average third quarter mass mailing totals for even-numbered years somewhat understate the increased rate of mailing prior to the election; all third-quarter mail is sent in the six week period between July 1 and the beginning of the prohibited period in early August.

Below-average totals are observed in the fourth quarter of the second year of each Congress and the first quarter of the first year of each Congress (marked as 'C'). The fourth quarter of the second year of each Congress (October-December) includes approximately five weeks during which mass mailings are prohibited, and otherwise comprises the period between the election and the start of the next Congress, a period in which Congress is not typically in session.

Election vs. Non-Election Year

Critics of the franking privilege have often cited increased election-year mail costs as evidence of political use of the frank prior to elections.⁷ Although mass mail costs do rise in the quarters prior to the pre-election prohibited period (as shown in **Figure 2**) the structure of the fiscal calendar is also important in creating large disparities between election-year and non-election-year mail costs.

Table 2. Total Pieces of Member Mass Mail Sent, House, by Fiscal Year and Calendar Year, 1998 to 2007
(millions of pieces)

Year	Total Pieces of Mass Mail Sent ^a	
	Fiscal Year	Calendar Year
1998	157.6	116.4
1999	74.6	112.9
2000	153.5	112.3
2001	69.3	117.1
2002	150.0	102.7
2003	67.8	110.0
2004	155.3	117.1
2005	70.6	110.6
2006	160.3	116.5
2007	63.3	98.0

Source: CRS analysis of mass mail data

a. Columns do not sum to the same total because fiscal years and calendar years do not correspond. FY1998 includes data from October-December 1997 whereas CY1998 includes data from October-December 1998.

As shown in **Table 2**, when mass mailings are compared by fiscal year, both the December spike and the pre-election increase are in the same year, so the data show inflated election-year numbers and suppressed non-election-year numbers. When annual data are compared by calendar year, the December spike and the pre-election increase balance out, and the totals are relatively similar. Thus comparisons of fiscal year mass mail data tend to overstate the effect of pre-election increases in mail costs, since they also capture the effect of the December spike in mail costs.

Because fiscal years run from October 1 to September 30, both the spike in mass mailings in the fourth quarter of the first session and the pre-election rise in mass

⁷ For example, see Common Cause, "Franks A Lot," press release, June 16, 1989, Common Cause Records, 1968-1991, Series 15, Box 293, Princeton University, Seely G. Mudd Manuscript Library; *Common Cause v. Bolger*, 512 F. Supp. 26, 32 (D.D.C. 1980).

mailings occur in the same fiscal year, despite taking place in different calendar years and different sessions of Congress.

Discussion

Critics of the franking privilege have generally articulated two concerns. First, the franking privilege is financially wasteful and, second, the franking privilege gives unfair advantages to incumbents in congressional elections.⁸ In particular, mass mailings have come under increased scrutiny during the past 20 years as critics argue that the vast majority of franked mail is unsolicited and, in effect, publicly funded campaign literature.⁹ Critics note that incumbent House Members may spend as much on franked mail in a year as a challenger spends on his or her entire campaign.¹⁰

Proponents of the franking privilege argue that the frank allows Members to fulfill their representational duties by providing for greater communication between the Member and individual constituents.¹¹ Proponents of the franking privilege also argue that Representative accountability is enhanced by use of the frank. By regularly maintaining direct communication with their constituents, Members provide citizens with information by which they can consider current public policy issues, as well as information on policy positions by which voters can judge a Member in future elections.¹² It is maintained that if legislative matters could not be easily transmitted to constituents free of charge, most Members could not afford to pay for direct communications with their constituents.¹³

The analysis presented here offers three contributions to this debate. First, it finds that a substantial percentage of the total cost of franked mail in the House of Representatives is Member mass mailings, on average accounting for 87% of all official mail postage costs in the House between 1997 and 2007, at an average cost of \$18.1 million per year. The analysis also finds that most Representatives make use of mass mailings to communicate with their constituents, with an annual average of 84% of Members sending at least one mass mail during the period 1997-2007.

Second, the analysis finds significant and regular quarterly variation in Member mass mailing, with the total number of pieces sent by Members following an eight-quarter pattern that corresponds to the two-year cycle of each Congress. The analysis shows two peaks in mailings, the first during the last quarter of the first session of

⁸ For example, see Yehle, "CRS: Franked Mail Has Cost \$1.4 Billion."

⁹ Wasmund, "Use and Abuse of the Congressional Franking Privilege," pp. 65-67; Brotherton, "Franking Critics Want Full Disclosure of Costs," p. 3.

¹⁰ Letter from Pete Sepp, president, National Taxpayer's Union, to Representative Brad Sherman, July 13, 2004, available at [http://www.ntu.org/main/letters_detail.php?letter_id=198].

¹¹ Wasmund, "Use and Abuse of the Congressional Franking Privilege," p. 56.

¹² Yehle, "CRS: Franked Mail Has Cost \$1.4 Billion."

¹³ Scott Bice, "Project: Post Office," *Southern California Law Review*, vol. 41 (Spring 1968), pp. 643, 658.

Congress and the second during the two quarters prior to the pre-election prohibition on Member mass mailings.

These findings provide insight regarding concerns about election-year mass mailing expenditures. Although they confirm that Members send more pieces of mass mail in the quarters just prior to the biennial elections, the findings also show that mass mailing peaks twice, and the larger peak takes place not prior to the election, but at the end of the first session.

These findings also suggest that previous comparisons of election-year and non-election-year franked mail data may need to be considered. When mass mailings are compared by fiscal year, both the first session spike and the pre-election increase are in the same year, so the data show inflated election-year numbers and suppressed non-election-year numbers. Thus comparisons of fiscal year official mail costs tend to overstate the effect of pre-election increases in mail costs, since they also capture the effect of the December spike in mail costs.