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Former Speakers of the House: Office Allowances, Franking Privileges, and Staff Assistance

,name redacted,
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Summary

Since 1970, former Speakers of the House of Representatives have been provided with an allowance after their departure from the House. Currently, the statutorily authorized allowance is available to former Speakers for office space and furnishings, office operations, franked mail, and staff assistance. Use of the allowance is limited to five years, beginning the day of expiration of a Speaker's tenure as a Representative. Allowances are to be used solely for the administration and conclusion of matters relating to service as a Representative and Speaker of the House.

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Introduction

Since 1970, former Speakers of the House of Representatives have been provided with an allowance after their departure from the House. Currently, the statutorily authorized allowance is available to former Speakers for office space and furnishings, office operations, franked mail, and staff assistance. Use of the allowance is limited to five years, beginning the day of expiration of a Speaker's tenure as a Representative. Allowances are to be used solely for the administration and conclusion of matters relating to service as a Representative and Speaker of the House.

Background

Former Speakers of the House of Representatives were first provided with allowances available upon their departure from the House in 1970.¹ H.Res. 1238 (91st Congress) provided former Speakers with federal office space; office furniture, furnishings, and equipment; funds for office expenses, telephone service, stationery, and other office supplies; an administrative assistant and a secretary; and franked mail authority.²

These allowances were agreed to by the House on December 22, 1970 (218-69), for the incumbent Speaker, John W. McCormack, who was scheduled to retire from the House two weeks later, on January 3, 1971. With the exception of use of the frank, the allowances were authorized for two years immediately following McCormack's retirement at the conclusion of the 91st Congress. Use of the frank was extended for an additional 18 months beyond the 90 days allowed Members upon leaving Congress.³

During consideration of H.Res. 1238, proponents of the allowances noted McCormack's exceptionally long tenure of 42 years in the House, and the fact that he was the first Speaker to retire to private life. As a consequence, they felt it appropriate to provide him the means to finish any Speaker-related business he felt necessary upon leaving Congress.⁴

¹ Prior to 1970, former Speakers who remained in Congress were provided an extra allowance. Research indicates that the earliest allowances for former Speakers of the House were made available in 1959. Two resolutions adopted that January (H.Res. 88, effective January 12, and H.Res. 89, effective January 7) provided "any Member of the House who had served as Speaker" with funds for the "purchase, maintenance, operation, and driving of an automobile," and an additional \$5,000 basic per annum for clerk hire, and in addition an administrative assistant at the basic rate of \$8,880 per annum." This allowance was *in addition* to the staff allowance authorized for a sitting Representative, implying that a former Speaker would have to be a sitting Member to receive an additional clerk hire allowance. At the time, a former Speaker, Rep. Joseph W. Martin, was an incumbent Member of the House. In addition, incumbent Speaker Sam Rayburn was technically a former Speaker because his service as Speaker had been interrupted twice since 1940. Rep. Rayburn was Speaker from September 16, 1940-January 3, 1947, and January 3, 1949-January 3, 1953. His third and final term as Speaker was from January 5, 1955 until his death November 16, 1961. For more information, see U.S. Congress, House, *Deschler's Precedents of the United States House of Representatives*, H. Doc. 94-661, 94th Cong., 2nd sess., prepared by Lewis Deschler (Washington: GPO, 1976), vol. 1, pp. 440-444; H.Res. 88 (86th Cong.) and H.Res. 89 (86th Cong.), made permanent by P.L. 86-176, 73 Stat. 412, August 21, 1959, Sec. 103, Legislative Branch Appropriations Act, FY1960; Rep. John McCormack, "Automobiles for Use of Former Speakers," remarks in the House, *Congressional Record*, vol. 105, January 12, 1959, p. 559; Hon. Charles Halleck, "Additional Clerk Hire," remarks in the House, *Congressional Record*, vol. 105, January 12, 1959, p. 559.

² "Relating to the Speaker of the House of Representatives in the 91st Congress," *Congressional Record*, vol. 116, part 32 (December 22, 1970), pp. 43313-43317.

³ See 39 U.S.C. 3210(b)(3) for language providing use of the frank for 90 days by Members upon leaving Congress.

⁴ Rep. Thomas O'Neill, "Relating to the Speaker of the House of Representatives in the 91st Congress," remarks in the House, *Congressional Record*, vol. 116, December 22, 1970, pp. 43313-43317.

H.Res. 1238 was made permanent law in 1971 (P.L. 91-665).⁵ In 1974, Congress removed the two-year limitation on the allowance.⁶ Current law limits access to these benefits to five years.⁷

Allowances Currently Available to Former Speakers

Four categories of allowances are currently available to a former Speaker: office space and furnishings, office operations, franked mail, and staff assistance. A summary of each of these allowances follows.

Office Space and Furnishings Allowance

A former Speaker is entitled to the use of one office of his selection, which is to be furnished and maintained by the federal government. Statutory authority is 2 U.S.C. Section 31b-1, which states:

(a) Each former Speaker of the House of Representatives (hereafter referred to in sections 31b-1 to 31b-7 of this title as the “Speaker”) is entitled to retain, for as long as he determines there is need therefor [sic], commencing at the expiration of his term of office as a Representative in Congress the complete and exclusive use of one office selected by him in order to facilitate the administration, settlement, and conclusion of matters pertaining to or arising out of his incumbency in office as a Representative in Congress and as Speaker of the House of Representatives. Such office shall be located in the United States and shall be furnished and maintained by the Government in a condition appropriate for his use.

(b) Sections 31b-1 to 31b-7 of this title shall not apply with respect to any former Speaker of the House of Representatives for any period during which such former Speaker holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate or to any former Speaker separated from the service by reason of expulsion from the House.⁸

No statutory restrictions exist on the cost, type, or location of a former Speaker’s office.⁹

⁵ P.L. 91-665, 84 Stat. 1989, January 9, 1971, ch. VIII, Supplemental Appropriations Act, FY1971, which made permanent the provisions of H.Res. 1238, 91st Cong., agreed to December 22, 1970.

⁶ P.L. 93-532, 88 Stat. 1723, December 22, 1974, An Act Relating to Former Speakers of the House of Representatives.

⁷ P.L. 103-69, 107 Stat. 699, August 11, 1993, Legislative Branch Appropriations Act, FY1994; 2 U.S.C. §31b-7.

The entitlements of a former Speaker of the House of Representatives under this resolution shall be available-

- (1) in the case of an individual who is a former Speaker on the effective date of this section, for 5 years, commencing on such effective date; and
- (2) in the case of an individual who becomes a former Speaker after such effective date, for 5 years, commencing at the expiration of the term of office of the individual as a Representative in Congress.”

⁸ P.L. 91-665, 84 Stat. 1989, January 9, 1971, ch. VIII, Supplemental Appropriations Act, FY1971, which made permanent the provisions of H.Res. 1238, 91st Cong., agreed to December 22, 1970; P.L. 93-532, 88 Stat. 1723, December 22, 1974, An Act Relating to Former Speakers of the House of Representatives; and P.L. 99-225, 99 Stat. 1743, December 28, 1985, To Remove Certain Restrictions on the Availability of Office Space for Former Speakers of the House. Allowances are administered by the General Services Administration.

⁹ The statute was amended in 1985 to delete language regarding “the Federal office space which is currently made available for his use in the congressional district represented by him” and instead inserted language providing former Speakers with an office “located in the United States.” P.L. 99-225, 99 Stat. 1743, December 28, 1985; 2 U.S.C. (continued...)

Official Expenses Allowance

Each former Speaker is entitled to an office allowance for office and other expenses. Statutory authority is 39 U.S.C. 31b-4.¹⁰

The Speaker is entitled to have the applicable accounts of the House of Representatives be available for payment of, for as long as he determines there is need therefor, commencing at the expiration of his term of office as a Representative in Congress, an allowance equal to the Members' Representational Allowance (to be paid in the same manner as such Allowance) for office and other expenses incurred in connection with the administration, settlement, and conclusion of matters pertaining to or arising out of his incumbency in office as a Representative in Congress and as Speaker of the House of Representatives.

While a former Speaker has been provided with an allowance to support office expenses since 1970, the law governing these expenses has changed over time to reflect the modifications to the underlying laws providing for official office expenses for Representatives.¹¹ Section 2 of H.Res. 1238 (91st Congress), as agreed to on December 22, 1970, provided a former Speaker with an office allowance equal to the

manner provided by applicable provisions of the Legislative Appropriation Act, 1955, as amended by the Act of June 13, 1957 (71 Stat. 82; Public Law 85-54), and by the provisions of House Resolution 831, Eighty-eighth Congress, adopted August 14, 1964, enacted as permanent law by section 103 of the Legislative Branch Appropriation Act, 1966 (79 Stat. 281; Public Law 89-90; 2 U.S.C. 122a), aggregate quarterly amount equal to the aggregate quarterly amount to which a Member of the House of Representatives is entitled under such provisions of law as in effect on January 8, 1971, or as amended or supplemented after such date.¹²

The language was amended in 1985 by the FY1986 Legislative Branch Appropriations Act. The act deleted obsolete references to prior laws and added language providing for “an allowance equal to the base allowance component of the Official Expenses Allowance then currently in effect for each Member of the House (to be paid in the same manner as such Allowance).”¹³ The House report states that the change, in addition to adjusting staff compensation levels, “clarifies the former Speakers’ allowances to provide a consolidated base allowance.”¹⁴ When the allowance system for current Representatives was further consolidated into the Members’ Representational Allowance (MRA) in 1995,¹⁵ corresponding adjustments to the former Speaker’s

(...continued)

§31b-1.

¹⁰ P.L. 91-665, 84 Stat. 1989, January 8, 1971, which made permanent the provisions of H.Res. 1238, 91st Cong., agreed to December 22, 1970, and P.L. 93-532, 88 Stat. 1723, December 22, 1974, An Act Relating to Former Speakers of the House of Representatives.

¹¹ For more information on underlying expenses for Members of the House, see CRS Report R40962, *Members’ Representational Allowance: History and Usage*, by (name redacted).

¹² “Relating to the Speaker of the House of Representatives in the 91st Congress,” *Congressional Record*, vol. 116, part 32 (December 22, 1970), p. 43314. The provisions of H.Res. 1238 were made permanent by P.L. 91-665, 88 Stat. 1723, December 22, 1974.

¹³ P.L. 99-151, 99 Stat. 797, November 13, 1985.

¹⁴ U.S. Congress, *Legislative Branch Appropriations Bill, 1986*, report to accompany H.R. 2942 (Washington, GPO: 1985) p. 15.

¹⁵ The MRA replaced the former clerk hire allowance, the official expenses allowances, and the official mail allowance. Subsequently, the FY1996 legislative branch appropriations bill reflected the merger of the three previously separate allowances into one. The bill combined the separate allowances for staff, official office expenses, and mail costs into a (continued...)

allowance were made by deleting references to the former “contingent fund” and “by striking out ‘base allowance’ and all that follows through ‘Member of the House’ and inserting in lieu thereof ‘Members’ Representational Allowance.’”¹⁶

Use of the Congressional Frank

Each former Speaker is entitled to use of the congressional frank for correspondence and public documents. Statutory authority is 39 U.S.C. 31b-4.¹⁷

(a) The Speaker may send mail as franked mail under sections 3210¹⁸ and 3213¹⁹ of title 39, and send and receive mail as franked mail under section 3211²⁰ ... commencing at the close of the period specified in those sections following the expiration of his term of office as a Representative.... The postage on such mail ... shall be paid and credited as provided by section 3216(a)²¹ of title 39. (b) ... commencing at the expiration of his term of office as a Representative ... the Speaker shall be entitled to the benefits afforded by section 733 of title 44.²²

No specific statutory limits have been placed on the use of the frank by former Speakers. As persons entitled to use the frank, former Speakers of the House presumably continue to be bound by regulations requiring franked mail to comply with rules established by the Commission on Congressional Mailing Standards (the Franking Commission).²³

(...continued)

new appropriations heading, “Members’ Representational Allowances” (MRA). The House of Representatives Administrative Reform Technical Corrections Act made this provision permanent law. This act also made corresponding adjustments to the former Speaker’s allowance. See Committee Order No. 41, Committee on House Administration, September 1, 1995, in 2 U.S.C. §57; P.L. 104-53, 109 Stat. 519, November 19, 1995; P.L. 104-186, 110 Stat 1720, August 20, 1996; 2 U.S.C. §57a et seq.; P.L. 104-186, 110 Stat. 1725, August 20, 1996.

¹⁶ P.L. 104-186, 110 Stat. 1725, August 20, 1996.

¹⁷ P.L. 91-665, 84 Stat. 1989, January 8, 1971, which made permanent the provisions of H.Res. 1238, 91st Cong., agreed to December 22, 1970, and P.L. 93-532, 88 Stat. 1723, December 22, 1974, An Act Relating to Former Speakers of the House of Representatives.

¹⁸ Provisions of 39 U.S.C. 3210 extend use of the frank to the Vice President, Members of Congress, and congressional officials, and specify conditions governing use of the frank by authorized persons.

¹⁹ Provisions of 39 U.S.C. 3213 authorize use of the frank to transmit reports of the Department of Agriculture.

²⁰ Provisions of 39 U.S.C. 3211 authorize use of the frank for all public documents printed by order of Congress.

²¹ Provisions of 39 U.S.C. 3216(a) include requirements for reimbursement by Congress for franked mailings sent by persons authorized to do so in the Legislative Branch.

²² Provisions of 44 U.S.C. 733 authorize the Public Printer to provide to Members of Congress, the Resident Commissioner, and Delegates (1) blank franks printed on sheets of paper for use on public documents and (2) envelopes, as authorized to be furnished by the House, with the facsimile signature of the Member, Resident Commissioner, or Delegate, along with the state, territory, or commonwealth, date, and subject matter.

²³ U.S. Congress, House Commission on Congressional Mailing Standards, *Regulations on the Use of the Congressional Frank by Members of the House of Representatives and Rules of Practice in Proceedings*, 105th Cong., 2nd sess. (Washington: GPO, 1998), p. VII (available at <http://cha.house.gov/PDFs/franking/franking2.pdf>). For more information on franking see CRS Report RS22771, *Congressional Franking Privilege: Background and Recent Legislation*, by (name redacted) ; CRS Report RL34458, *Franking Privilege: Mass Mailings and Mass Communications in the House, 1997-2013*, by (name redacted) ; and CRS Report RL34274, *Franking Privilege: Historical Development and Options for Change*, by (name redacted) .

Staff Assistance Allowance

A former Speaker is entitled to an administrative assistant and two secretaries at statutorily designated rates of pay, under authority contained in 2 U.S.C. 31b-5.²⁴

In order to provide staff assistance to the Speaker in connection with the administration, settlement, and conclusion of matters pertaining to or arising out of his incumbency in office as a Representative in Congress and as Speaker of the House of Representatives, the contingent fund of the House is hereby made available, for as long as he determines there is need therefor, commencing at the expiration of the term of office of the Speaker as a Representative in Congress for payment of the salaries of an Administrative Assistant, who shall be paid at a basic per annum rate of not to exceed the then current rate for step 11 of level 13 of the House Employees Schedule, as determined by the Speaker, a Secretary, who shall be paid at a basic per annum rate of not to exceed the then current rate for step 8 of level 12 of such Schedule, as determined by the Speaker, and an additional Secretary, who shall be paid at a gross per annum rate of not to exceed the then current rate for step 7 of level 11 of such Schedule as determined by the Speaker, designated and appointed by the Speaker to serve as members of his office staff in such period.²⁵

In calendar year 2015, these maximum levels were equivalent to \$158,486, \$133,108, and \$116,104, respectively. The section also states that staff are considered “congressional employees” for benefits including retirement, health insurance, and life insurance.

Funding and Restrictions on Use

Funding for the allowance is provided through the annual Legislative Branch Appropriations Act. Payments are disbursed by the Chief Administrative Officer of the House and quarterly reporting of these expenditures can be found in the *Statements of Disbursement of the House*.²⁶

Four restrictions apply to the use of allowances by former Speakers. Allowances are (1) limited to five years beginning the day of expiration of a Speaker’s term of office;²⁷ (2) not available to a

²⁴ P.L. 91-665, 84 Stat. 1989, January 8, 1971, ch. VIII, Supplemental Appropriations Act, FY1971, which made permanent the provisions of H.Res. 1238, 91st Cong., agreed to December 22, 1970; P.L. 93-532, 88 Stat. 1723, December 22, 1974, An Act Relating to Former Speakers of the House of Representatives; P.L. 95-94, 91 Stat. 668, August 5, 1977, Title I, Sec. 115, Legislative Branch Appropriations, FY1978; P.L. 99-151, 99 Stat. 797, November 13, 1985, Title I, Sec. 102(a), Legislative Branch Appropriations, FY1986; and P.L. 104-186, 110 Stat. 1725, August 20, 1996, Title II, Sec. 203(3), Legislative Branch Appropriations Act, FY1997.

²⁵ The current statute reflects a series of changes since 1976: an increase in the maximum rate of pay for the final staffer from “step 1 of level 6” to “step 7 of level 11” in FY2008 and an increase in the maximum rate of pay for the other two positions in FY2005, which increased the maximum for one position from “step 5 of level 11” to “step 11 of level 13” and increased the maximum for another position from “step 9 of level 8” to “step 8 of level 12.” The section had previously been amended in 1996 to address the transfer of the House disbursing function from the Clerk to the CAO; in 1985 to incorporate the references to the House Employees Schedule rather than a statutorily established maximum dollar amount; and, in 1976 to increase the number of employees from two to three. See P.L. 110-161, 121 Stat. 2225, December 26, 2007; P.L. 108-447, 118 Stat. 3177, December 8, 2004; P.L. 104-186, 110 Stat. 1725, August 20, 1996; P.L. 99-151, 99 Stat. 797, November 13, 1985. The House report states that this adjustment “clarifies the former Speakers’ allowances” (U.S. Congress, House Committee on Appropriations, *Legislative Branch Appropriations Bill, 1986*, 99th Cong., 1st sess., H. Rept. 99-194, report to accompany H.R. 2942 (Washington, GPO: 1985) p. 15); H.Res. 1576, 94th Congress, September 30, 1976, made permanent by P.L. 95-94, 91 Stat. 668, August 5, 1977.

²⁶ The Chief Administrative Officer of the House has published the statements of disbursements online since the third quarter of 2009. See <http://disbursements.house.gov/>.

²⁷ P.L. 103-69, 107 Stat. 699, August 11, 1993, Legislative Branch Appropriations Act, FY1994.

former Speaker who has been expelled from the House;²⁸ (3) terminated during the period of time in which a former Speaker holds an appointive or elective office or position in or under the federal or District of Columbia government, for which he received pay other than at a nominal rate;²⁹ and (4) limited solely to the administration and conclusion of matters relating to a Speaker's service as a Representative and Speaker of the House.³⁰

Author Contact Information

(name redacted)
Analyst on the Congress
[redacted]@crs.loc.gov , 7-....

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²⁸ P.L. 93-532, 88 Stat. 1723, December 22, 1974, An Act Relating to Former Speakers of the House of Representatives.

²⁹ Ibid.

³⁰ P.L. 86-176.

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