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

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Summary

Beginning in 1970 and until the passage of P.L. 115-244, former Speakers of the House of Representatives were provided with an allowance upon their departure from the House. The allowance was established to assist retiring Speakers in concluding any official business arising from their tenure in the House. The statutorily authorized allowance has been available to former Speakers for office space and furnishings, office operations, franked mail, and staff assistance. Use of the allowance was limited to five years, beginning the day of expiration of a Speaker's tenure as a Representative, and was to be used solely for the administration and conclusion of matters relating to service as a Representative and Speaker of the House.

Legislation to limit or abolish the allowance for former Speakers has been periodically introduced in previous Congresses. The legislative branch appropriations act for FY2019, P.L. 115-244, was enacted on September 21, 2018, and included a provision to repeal the allowance. The repeal of allowances applies to any Member who served in the 115th Congress or any succeeding Congress.

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Introduction

Beginning in 1970 and until the passage of P.L. 115-244, former Speakers of the House of Representatives were provided with an allowance upon their departure from the House. The statutorily authorized allowance has been available to former Speakers for office space and furnishings, office operations, franked mail, and staff assistance. Use of the allowance was limited to five years, beginning the day of expiration of a Speaker’s tenure as a Representative, and was to be used solely for the administration and conclusion of matters relating to service as a Representative and Speaker of the House. The legislative branch appropriations act for FY2019 was enacted on September 21, 2018, and included a provision to repeal the allowance.¹ The repeal of allowances applies to any Member who served in the 115th Congress or any succeeding Congress.

Background

Former Speakers of the House of Representatives were first provided with allowances available upon their departure from the House in 1970.² 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.³

These allowances were originally 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 otherwise allowed Members upon leaving Congress.⁴

¹ P.L. 115-244.

² 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, ch. 6, §§2.3-2.5; 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.

³ “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.

⁴ See 39 U.S.C. §3210(b)(3) for language providing use of the frank for 90 days by Members upon leaving Congress.

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 Beginning in 1993, access to these benefits was limited to five years.⁷

Allowances for Former Speakers: Situation Prior to Enactment of P.L. 115-244

Prior to the enactment of P.L. 115-244, four categories of allowances were made available to a former Speaker, including the following:

- An office space and furnishings allowance for the use of one office of a Speaker's selection, furnished and maintained by the federal government.⁸
- An allowance for office and other expenses related to the administration and conclusion of official matters arising from a Speaker's service in the House.⁹
- An allowance to use the congressional frank for correspondence and public documents.¹⁰
- An allowance to hire an administrative assistant¹¹ and two additional staff members at statutorily designated rates of pay.¹²

Funding and Restrictions on Use: Situation Prior to Enactment of P.L. 115-244

Funding for the allowance has been provided through the annual legislative branch appropriations act. Since the 104th Congress, payments have been disbursed by the Chief Administrative Officer of the House; quarterly reporting of these expenditures can be found in the *Statements of Disbursements of the House*.¹³

Four general restrictions have applied to the use of allowances by former Speakers. Allowances have been

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. §5129.

⁸ 2 U.S.C. §5125.

⁹ 2 U.S.C. §5126. While former Speakers were provided with an allowance to support office expenses since 1970 and until the passage of P.L. 115-244, the law governing former Speakers' office expenses changed over time to reflect the modifications to the underlying laws providing for official office expenses for Representatives. For more information on expenses for Members of the House, see CRS Report R40962, *Members' Representational Allowance: History and Usage*, by Ida A. Brudnick.

¹⁰ 2 U.S.C. §5127.

¹¹ In the contemporary congressional office, the activities and duties of an administrative assistant are more typically carried out by the chief of staff.

¹² 2 U.S.C. §5128.

¹³ 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/>.

- limited to five years beginning the day of expiration of a Speaker’s term of office;¹⁴
- not available to a former Speaker who had been expelled from the House;¹⁵
- not available during the period of time in which a former Speaker held an appointive or elective office or position in or under the federal or District of Columbia government, for which he or she received pay other than at a nominal rate;¹⁶ and
- limited solely to the administration and conclusion of matters relating to a Speaker’s service as a Representative and Speaker of the House.¹⁷

In addition, some restrictions have applied to specific components of the allowance:

- Rates of pay for a former Speaker’s staff have been capped at specific levels and steps of the House Employees Salary Schedule.¹⁸
- While no additional statutory restrictions have been placed on use of the frank by former Speakers, its use presumably has been required to comply with rules established by the Commission on Congressional Mailing Standards (the Franking Commission).¹⁹

Repeal of Former Speakers’ Allowances

Legislation to limit or abolish allowances for former Speakers has been introduced periodically in previous Congresses.²⁰ On April 26, 2018, the House Appropriations Legislative Branch Subcommittee met to mark up the FY2019 legislative branch appropriations bill. The bill reported by the subcommittee included a provision to reduce the period of availability of allowances for former Speakers from five years to one year, and would apply to any Speaker whose term of office expired during FY2019 or later.²¹

On May 8, 2018, the House Appropriations Committee met to mark up the FY2019 legislative branch appropriations bill reported from the subcommittee. A manager’s amendment was offered

¹⁴ P.L. 103-69, 107 Stat. 699, August 11, 1993, Legislative Branch Appropriations Act, FY1994; 2 U.S.C §5129.

¹⁵ P.L. 93-532, 88 Stat. 1723, December 22, 1974, An Act Relating to Former Speakers of the House of Representatives; 2 U.S.C. §5125(b).

¹⁶ Ibid.

¹⁷ 2 U.S.C. §§5125-5128.

¹⁸ 2 U.S.C. §5128. The section also specifies that former Speakers’ staff are considered “congressional employees” for benefits including retirement, health insurance, and life insurance.

¹⁹ 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*, 115th Cong., 1st sess. (Washington: GPO, 2017), p. VII (available at https://cha.house.gov/sites/republicans.cha.house.gov/files/documents/franking_docs/Frankning_Manual.pdf). For more information on franking see CRS Report RS22771, *Congressional Franking Privilege: Background and Recent Legislation*, by Matthew E. Glassman; CRS Report RL34458, *Franking Privilege: Mass Mailings and Mass Communications in the House, 1997-2015*, by Matthew E. Glassman; and CRS Report RL34274, *Franking Privilege: Historical Development and Options for Change*, by Matthew E. Glassman.

²⁰ See, for example, H.R. 3904, 113th Congress; S. 3528, 112th Congress; H.R. 1768, 105th Congress; H.R. 2536, 104th Congress; H.R. 513, 103rd Congress; S. 1366, 103rd Congress; H.R. 3958, 103rd Congress; H.R. 3561, 102nd Congress; and H.Res. 436, 102nd Congress.

²¹ See H.R. 5894, Sec. 118 for the relevant text.

that, among other things, repealed authorizations for former Speakers' allowances entirely, applying to any Member who served in the 115th Congress or any future Congress.²² The manager's amendment was adopted by voice vote, and the legislative branch appropriations bill, H.R. 5894, was unanimously ordered reported by the committee. It was reported May 21 (H.R. 5894, H.Rept. 115-696).

On September 10, 2018, a conference report (H.Rept. 115-929) was filed on H.R. 5895, which included legislative branch appropriations for FY2019 and language from H.R. 5894 that repealed former Speakers' allowances for any Member serving in the 115th or any subsequent Congress. The conference report was agreed to in the Senate on September 12, agreed to in the House on September 13, and signed by the President on September 21, 2018.²³

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²² See <https://docs.house.gov/meetings/AP/AP00/20180508/108282/HMKP-115-AP00-20180508-SD003.pdf> (accessed May 9, 2018) for the text of the manager's amendment. The proposed changes would not appear to affect privileges and courtesies otherwise extended to Members of the House who leave office, including short-term franking privileges. For additional information on privileges and courtesies for former Members, see CRS Report R41121, *Selected Privileges and Courtesies Extended to Former Members of Congress*, by R. Eric Petersen.

²³ P.L. 115-244.