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*President of the United States: Compensation*

Barbara L. Schwemle, Government and Finance Division

August 6, 2008

**Abstract.** The Constitution of the United States provides that "The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected..." The amount of compensation, which is not specified in the Constitution, is set and adjusted by Congress. The President currently receives a salary of \$400,000 per annum, which became effective at noon on January 20, 2001, under P.L. 106-58.2 An expense allowance, currently set at \$50,000, also is provided. This report discusses the President's compensation and the three most recent increases to the salary enacted in 1949 (81st Congress), 1969 (91st Congress), and 1999 (106th Congress).

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# President of the United States: Compensation

**Barbara L. Schwemle**

Analyst in American National Government

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**CRS Report for Congress**

*Prepared for Members and Committees of Congress*

## Summary

The *Constitution of the United States* provides that “The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected....” (*Constitution of the United States*, Art. II, Sec. 1.) The amount of compensation, which is not specified in the Constitution, is set and adjusted by Congress. The President currently receives a salary of \$400,000 per annum, which became effective at noon on January 20, 2001, under P.L. 106-58. (P.L. 106-58, Title VI, §644(a); September 29, 1999; 113 Stat. 430, at 478.) An expense allowance, currently set at \$50,000, also is provided. This report discusses the President’s compensation and the three most recent increases to the salary enacted in 1949 (81<sup>st</sup> Congress), 1969 (91<sup>st</sup> Congress), and 1999 (106<sup>th</sup> Congress). It will be revised as events dictate.

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## Compensation Provided to the President

The President's salary, currently \$400,000, is subject to income tax. An additional expense allowance, at present \$50,000, is not taxable and is to be used for official purposes only. Any unused amount of the allowance reverts back to the U.S. Treasury pursuant to 31 U.S.C. §1552.<sup>1</sup> The salary and allowance provisions are codified at 3 U.S.C. §102.<sup>2</sup> Upon leaving office, the President receives a pension that is equal to the salary for Level I of the Executive Schedule (\$191,300, as of January 2008).<sup>3</sup> At this rate, the pension is currently \$8,700 short of being one-half of the President's current salary. The appropriation for the compensation of the President is included under the Executive Office of the President in an annual appropriations act which in the 110<sup>th</sup> Congress is known as the Financial Services and General Government Appropriations Act.<sup>4</sup> Under the Constitution, "The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them."<sup>5</sup> This provision has been interpreted to apply to a President's current term of office. According to *The General Principles of Constitutional Law in the United States of America*, "an increase made after a President has been re-elected, but before the second term has begun, may apply to his salary during the second term."<sup>6</sup>

<sup>1</sup> P.L. 108-199, Division F, Title III, §301; January 23, 2004; 118 Stat. 3, at 326 [Consolidated Appropriations Act, 2004 (H.R. 2673)]. The current allowance was established in 1949 (Act of January 19, 1949, c. 2, §1(a); 63 Stat. 4) and became effective at noon on January 19, 1949 (§3). The 1949 law provided that the allowance was not taxable. The Revenue Act of 1951 (H.R. 4473) provided that the allowance was taxable: Act of October 20, 1951, c. 521, Title VI, §619(a); 65 Stat. 452, at 569. This provision became effective at noon on January 20, 1953 (§619(e)). P.L. 108-199 provides that the allowance is not taxable.

<sup>2</sup> Title 3 of the *United States Code* was codified and enacted into positive law in 1948 (H.R. 6412). The provision on the President's salary is at Act of June 25, 1948, c. 644; 62 Stat. 672, at 678.

The Vice President receives a salary of \$221,100 (as of January 2008). See CRS Report RL33245, *Legislative, Executive, and Judicial Officials: Process for Adjusting Pay and Current Salaries*, by Barbara L. Schwemle. He receives an allowance, at present \$20,000, which is to be used for official purposes only and became effective in FY2003. (P.L. 108-7, Division H, Title I, §1(a); February 20, 2003; 117 Stat. 11, at 348 [Consolidated Appropriations Resolution, 2003 (H.J.Res. 2)].) The allowance was established in 1949 and originally set at \$10,000 (Act of January 19, 1949, c. 2, §1(c); 63 Stat. 4), and became effective at noon on January 19, 1949 (§3). The allowance is taxable. The 1949 law provided that it was not taxable, but the Revenue Act of 1951 (H.R. 4473) provides that it is taxable: Act of October 20, 1951, c. 521, Title VI, §619(b); 65 Stat. 452, at 570. This provision became effective at noon on January 20, 1953 (§619(e)). The salary and allowance provisions are codified at 3 U.S.C. §104 and §111. For the salaries of some staff members in the Vice President's office, see [http://www.legistorm.com/office/Office\\_of\\_the\\_Vice\\_President/15.html](http://www.legistorm.com/office/Office_of_the_Vice_President/15.html).

<sup>3</sup> See CRS Report 98-249, *Former Presidents: Federal Pension and Retirement Benefits*, by Stephanie Smith.

<sup>4</sup> For the FY2009 appropriations, see the section on the Executive Office of the President, written by Barbara L. Schwemle, in CRS Report RL34523, *Financial Services and General Government (FSGG): FY2009 Appropriations*, coordinated by Garrett Hatch. For the salaries of White House staff, as of June 30, 2008, see <http://www.washingtonpost.com/wp-srv/opinions/graphics/2008stafflistsalary.html?sid=ST2008072401798&pos=list>.

<sup>5</sup> Constitution of the United States, Art. II, Sec. 1.

<sup>6</sup> Thomas M. Cooley, *The General Principles of Constitutional Law in the United States of America* (Boston: Little, Brown, 1898), 4<sup>th</sup> ed. edited by Jon Roland, 2002, available at <http://www.constitution.org/cmt/tmc/pcl.htm>. See also James F. Vivian, *The President's Salary: A Study in Constitutional Declension, 1789-1990* (New York: Garland Publishing, Inc., 1993), p. 36. (Hereafter referred to as Vivian, *The President's Salary*.)

## Adjustments to the Salary of the President

The President's salary was established in 1789 and has been adjusted five times since—in 1873, 1909, 1949, 1969, and 1999—as shown in **Table 1** below.<sup>7</sup>

**Table 1. Adjustments to the President's Salary, 1789 On**

Year and Congress	Salary (\$)
1789 (1 <sup>st</sup> Congress)	25,000
1873 (43 <sup>rd</sup> Congress)	50,000
1909 (61 <sup>st</sup> Congress)	75,000
1949 (81 <sup>st</sup> Congress)	100,000
1969 (91 <sup>st</sup> Congress)	200,000
1999 (106 <sup>th</sup> Congress), and currently in effect	400,000

**Sources:** Act of Sept. 24, 1789 (1 Stat. 72) and Act of Feb. 18, 1793 (1 Stat. 318); Act of Mar. 3, 1873 (17 Stat. 485, at 486); Act of Mar. 4, 1909 (35 Stat. 845, at 859); Act of Jan. 19, 1949 (63 Stat. 4); P.L. 91-1, Jan. 17, 1969 (83 Stat. 3); and P.L. 106-58, Sept. 29, 1999 (113 Stat. 430, at 478).

A brief discussion of the congressional action that resulted in the three most recent increases to the President's salary follows.

### 81<sup>st</sup> Congress

Congress passed legislation (S.103) to increase the salary of the President to \$100,000 per annum in 1949.<sup>8</sup> This amount represented an increase of \$25,000 over the previous rate of \$75,000, which had been in effect since 1909. The salary became effective at noon on January 19, 1949.<sup>9</sup> The next day, President Harry S. Truman was sworn in for a second term.<sup>10</sup>

During Senate consideration of S.103 on January 13, 1949, a short history of the proposal was provided by Senator Herbert O'Connor:

<sup>7</sup> For a history of the adjustments enacted in 1789, 1873, 1909, 1949, and 1969, see Vivian, *The President's Salary*.

<sup>8</sup> Act of January 19, 1949, c. 2, §1(a), 63 Stat. 4. The Senate Committee on Post Office and Civil Service reported S.103 on January 11, 1949. (U.S. Congress, Senate Committee on Post Office and Civil Service, *President, Vice President and Speaker of the House—Compensation and Expenses*, S.1, 81<sup>st</sup> Cong., 1<sup>st</sup> sess., January 11, 1949, to accompany S.103; as printed in *United States Code Congressional Service*, 81<sup>st</sup> Cong., 1<sup>st</sup> sess. (St. Paul, MN: West Publishing Co., 1949), pp. 1083-1084. The Senate considered the bill and passed it, amended, on a 68 to 9 vote on January 13, 1949. ("Increased Compensation for Certain Government Officials," *Congressional Record*, vol. 95, January 13, 1949, pp. 185-190, 192-195, 198-222.) There was no House committee report. The House considered the bill under suspension of the rules and passed it, without amendment, by voice vote on January 17, 1949. ("Increasing Rates of Compensation of the President, Vice President, and Speaker of the House of Representatives," *Congressional Record*, vol. 95, January 17, 1949, pp. 414-421.) President Truman signed S.103 into law on January 19, 1949.

<sup>9</sup> 63 Stat. 4.

<sup>10</sup> Mr. Truman became President on April 12, 1945, following the unexpected death of President Franklin D. Roosevelt.

The bill under consideration has been developed after more than 1 ½ years' study by a subcommittee ... appointed by the chairman of the Post Office and Civil Service Committee in July 1947 ....

Following its consideration of the matter in the spring of 1948, the sub-committee submitted its recommendations to the entire Senate Committee on Civil Service. The committee then gave attention to the subject matter and reported favorably a bill, S.1537, Eightieth Congress, but insufficient time was left for the discussion of the matter in the Senate and the portion of the bill relating to the top-bracket officials was deleted when the measure was passed.

After months of study the subcommittee held hearings on a proposed redraft of a bill .... Therefore, S.103 as introduced .... represents the best judgment of the Senate Post Office and Civil Service Committee, of representatives of the executive branch, the Hoover Commission, competent persons from private industry, and representatives of the employee organizations.<sup>11</sup>

## 91<sup>st</sup> Congress

Pursuant to P.L. 90-206,<sup>12</sup> the Commission on Executive, Legislative, and Judicial Salaries studied the pay for top positions in the three branches of government and recommended salary increases for those positions. The commission, in submitting its FY1969 report to President Lyndon B. Johnson on December 2, 1968, urged him to bring the matter of the President's salary to Congress's attention. The report stated the commission's belief "that to preserve equity and balance in the pay structure of Government the salary of the President should be changed from \$100,000 to \$200,000."<sup>13</sup> In 1969, the salary of the President was increased to \$200,000 per annum when Congress passed H.R. 10 and President Johnson signed the bill into law on January 17, 1969.<sup>14</sup> The salary became effective at noon on January 20, 1969, when Richard M. Nixon was sworn in as President. With the inauguration of Mr. Nixon set to occur at that time, Congress needed to consider the legislation expeditiously or any adjustment in the salary would have been delayed at least until noon, January 20, 1973.

On January 3, 1969, Speaker of the House John McCormack addressed the House and explained the scheduling of H.R. 10 on the legislative program.

... [I]n the case of the next president of the United States, unless something is done with reference to increasing his salary on or before January 20, even if we pass the bill later, he could not take advantage of it during his term of office for a period of 4 years.

We are faced with a very practical situation here with respect to the organization of the committees. This will take time, and 12 o'clock January 20 is the deadline. So, if we are going to take any action in connection with an increase in salary for the next President of the United States, it has to be done on or before noon of January 20. If we took action

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<sup>11</sup> "Increased Compensation for Certain Government Officials," *Congressional Record*, vol. 95, January 13, 1949, p. 186.

<sup>12</sup> P.L. 90-206, §225; December 16, 1967; 81 Stat. 613, at 642-645 [Postal Revenue and Federal Salary Act of 1967 (H.R. 7977)].

<sup>13</sup> U.S. Commission on Executive, Legislative, and Judicial Salaries, *Report of the Commission on Executive, Legislative, and Judicial Salaries* (Washington: GPO, December 1968), p. 17.

<sup>14</sup> P.L. 91-1, §1; January 17, 1969; 83 Stat. 3. The House passed H.R. 10 under suspension of the rules by voice vote on January 6, 1969. Nine days later, on January 15, 1969, the Senate passed the bill under unanimous consent.

afterwards, then during his term of office he could not take advantage of the increase in salary that the Congress might provide. We feel it is only fair and just.

This action was initiated by the majority leader and myself in conference with the minority leader and the whip and the chairman of the House Committee on Post Office and Civil Service and the ranking member of that committee. It was decided that every effort should be made to try to put a bill through before January 20 providing for an increase in salary for the President of the United States.

... Now, next Monday is the only suspension day that we could take advantage of. So the leadership and I felt that we should do so at this opportunity. Otherwise, in spite of every effort we might make, the chances are it would be difficult to get a bill through before January 20.<sup>15</sup>

During consideration of H.R. 10 on January 6, 1969, House Majority Leader Carl Albert, one of the bill's sponsors, reiterated the Constitution's proviso against a sitting President's salary being increased and emphasized that the legislation:

... was initiated by Members of Congress and not by the President of the United States. We have not asked for a recommendation either by the present President or by the incoming President.<sup>16</sup>

When the Senate considered the bill on January 15, 1969, Senator Hiram Fong stated that he "wish[ed] we had more time, really, to discuss the bill, because I think the Committee on Post Office and Civil Service should discuss it thoroughly."<sup>17</sup> Majority Leader Mike Mansfield responded that he agreed and then stated:

But as the Senator knows, we are stymied because following the traditions, precedents, and customs of the Senate, we could not take up proposed legislation for consideration until after the President had delivered his state of the Union message.<sup>18</sup>

## 106<sup>th</sup> Congress

The President's salary was increased to its current rate of \$400,000 per annum when Congress passed H.R. 2490 and President William J. Clinton signed it into law on September 29, 1999. The bill, as passed by the House, included the salary provision, but the Senate-passed version did not. The conference committee adopted the House position.<sup>19</sup> This action occurred more than 15

<sup>15</sup> Rep. John McCormack, "Legislative Program for Next Week and Authority for Speaker to Declare a Recess on January 9, 1969, to Receive Apollo 8 Astronauts," remarks in the House, *Congressional Record*, vol. 115, January 3, 1969, p. 38.

<sup>16</sup> Rep. Carl Albert, "To Increase the *Per Annum* Rate of Compensation of the President of the United States," remarks in the House, *Congressional Record*, vol. 115, January 6, 1969, pp. 172-176, at 173.

<sup>17</sup> Sen. Hiram Fong, "Presidential Pay Bill," remarks in the Senate, *Congressional Record*, vol. 115, January 15, 1969, pp. 910-915, at 910.

<sup>18</sup> *Ibid.*, pp. 910-911.

<sup>19</sup> As reported by the House Committee on Appropriations on July 13, 1999, H.R. 2490, the Treasury, Postal Service, and General Government Appropriations Act for FY2000, included the provision to increase the President's salary. (U.S. Congress, House Committee on Appropriations, *Treasury, Postal Service, and General Government Appropriations Bill, 2000*, report to accompany H.R. 2490, 106<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 106-231 (Washington: GPO, 1999).) The House passed the bill on July 15 1999, on a 210 to 209 (Roll No. 305) vote. Four days later, on July 19, 1999, the Senate substituted the language of its version of the bill (S. 1282) into H.R. 2490 before passing it under (continued...)

months prior to the effective date of the salary change—at noon on January 20, 2001—when George W. Bush was sworn in as President. The House Subcommittee on Government Management, Information, and Technology of the Committee on Government Reform had conducted a hearing on the President’s salary on May 24, 1999.<sup>20</sup> Among those testifying before the committee were a former Special Assistant to President Lyndon B. Johnson, a former Counsel to President Gerald R. Ford, and the former Chiefs of Staff to Presidents Richard M. Nixon, Ronald W. Reagan, George H.W. Bush, and William J. Clinton, each of whom expressed support for a substantial increase in the President’s salary to reflect the prestige of the office and its application as a measure against which the salaries of other top officials in the government are adjusted. Other witnesses who represented public interest groups and compensation experts also testified in favor of an increase in salary to at least \$400,000. The Congressional Accountability Project was the only organization that testified against the increase on the basis that it raised the cap on the salaries of the other top officials.

## Future Adjustment in the President’s Salary

If Congress were again to increase the salary of the next President, legislation would have to be enacted prior to January 20, 2009, at noon, when a new President will be sworn in. No legislation proposing such an increase has been introduced in the 110<sup>th</sup> Congress.

## Author Contact Information

Barbara L. Schwemle  
Analyst in American National Government  
bschwemle@crs.loc.gov, 7-8655

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(...continued)

unanimous consent. The conference committee agreed to the House provision and included it as Section 644 of H.R. 2490. The House, on September 15, 1999, on a 292 to 126 (Roll No. 426) vote and the Senate, on September 16, 1999, on a 54 to 38 (Record No. 277) vote, agreed to the conference report. President William J. Clinton signed H.R. 2490 into law on September 29, 1999, and it became P.L. 106-58 (113 Stat. 430, at 478). See “Treasury and General Government Appropriations Act, 2000,” *Congressional Record*, vol. 145 (Washington: GPO, 1999), pp. H5612-H5677 [July 15, 1999, House debate and passage]; p. S8811 [July 19, 1999, Senate passage]; pp. H8201-H8225 [H.Rept. 106-319, September 14, 1999, text of conference report]; pp. H8339-H8352 [September 15, 1999, House consideration of and agreement to conference report]; and pp. S10965-S10968 [September 16, 1999, Senate consideration of and agreement to conference report].

<sup>20</sup> U.S. Congress, House Committee on Government Reform, Subcommittee on Government Management, Information, and Technology, *Salary of the President of the United States*, hearing, 106<sup>th</sup> Cong., 1<sup>st</sup> sess., May 24, 1999 (Washington: GPO, 2000).