Calendar No. 507

114TH CONGRESS
2d Session

SENATE

REPORT
114–271

PRESIDENTIAL ALLOWANCE MODERNIZATION ACT OF 2016

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1411

TO AMEND THE ACT OF AUGUST 25, 1958, COMMONLY KNOWN AS THE "FORMER PRESIDENTS ACT OF 1958", WITH RESPECT TO THE MONETARY ALLOWANCE PAYABLE TO A FORMER PRESIDENT, AND FOR OTHER PURPOSES

JUNE 7, 2016.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE
59–010 WASHINGTON : 2016

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

RON JOHNSON, Wisconsin, *Chairman*

JOHN McCAIN, Arizona
ROB PORTMAN, Ohio
RAND PAUL, Kentucky
JAMES LANKFORD, Oklahoma
MICHAEL B. ENZI, Wyoming
KELLY AYOTTE, New Hampshire
JONI ERNST, Iowa
BEN SASSE, Nebraska

THOMAS R. CARPER, Delaware
CLAIRE McCASKILL, Missouri
JON TESTER, Montana
TAMMY BALDWIN, Wisconsin
HEIDI HEITKAMP, North Dakota
CORY A. BOOKER, New Jersey
GARY C. PETERS, Michigan

CHRISTOPHER R. HIXON, *Staff Director*
GABRIELLE D'ADAMO SINGER, *Chief Counsel*
PATRICK J. BAILEY, *Chief Counsel for Governmental Affairs*
GABRIELLE A. BATKIN, *Minority Staff Director*
JOHN P. KILVINGTON, *Minority Deputy Staff Director*
MARY BETH SCHULTZ, *Minority Chief Counsel*
KATHERINE C. SYBENGA, *Minority Chief Counsel for Governmental Affairs*
LAURA W. KILBRIDE, *Chief Clerk*

Calendar No. 507

114TH CONGRESS 2d Session | SENATE | REPORT 114–271

PRESIDENTIAL ALLOWANCE MODERNIZATION ACT OF 2016

JUNE 7, 2016.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, submitted the following

REPORT

[To accompany S. 1411]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1411) to amend the Act of August 25, 1958, commonly known as the "Former Presidents Act of 1958", with respect to the monetary allowance payable to a former President, and for other purposes, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

CONTENTS

I. PURPOSE AND SUMMARY

S. 1411, the Presidential Allowance Modernization Act of 2016, amends the Former Presidents Act of 1958 (FPA) to modernize the monetary allowances and pensions payable to former presidents. Specifically, it revises provisions relating to presidential pensions to allow a former President an annuity of $200,000 and additional monetary allowance of $200,000 per year for office space and staff to conduct his or her duties as a former president. It also reduces such monetary allowance by the amount that a former president's adjusted gross income in a taxable year exceeds $400,000.

This bill would also clarify that a widow or widower of a former president is eligible for a survivor's annuity and increases that annual annuity from $20,000 to $100,000.

II. Background and Need for Legislation

Prior to 1958, former presidents did not receive a pension or any other financial assistance from the Federal Government.[1] While some former presidents returned to comfortable lives after leaving office, others, like President Harry S. Truman, struggled financially.[2] The FPA was enacted in 1958 to provide former United States presidents with "a pension, support staff, office support, travel funds, and mailing privileges" after they leave office.[3] The FPA was intended to "maintain the dignity" of the Office of the President.[4]

Under the FPA, as amended, a former president receives a pension that is equal to the annual pay of the head of an Executive department.[5] This amount was $203,700 in 2015 and increased to $205,700 in 2016.[6] Additionally, the FPA provides an annual pension of $20,000 to the widow of a former president.[7]

In addition to the Federal pension, the FPA requires Congress to appropriate funds, and the General Services Administration (GSA) to provide funds to former presidents to cover their staffing and office needs.[8] The statutory obligation arises from Congress's recognition that former presidents should have funding to continue their required official business as former presidents.

In fiscal year (FY) 2015, Congress appropriated $3.25 million to GSA to cover the annual allowance for the four living former Presidents, as well as former First Lady Nancy Reagan.[9] Of that total appropriation, $1.182 million went toward office space rentals, including $429,000 in rent for former President Bill Clinton and $434,000 for former President George W. Bush.[10] According to GSA, annual non-security, non-pension costs for all of the benefits provided to former presidents totaled over $2.4 million in FY 2015.[11]

In addition to the FPA, the Presidential Transition Act provides an outgoing president with seven months of "transition" services, and Federal law requires that former presidents and their spouses (and children under the age of 16) receive lifetime Secret Service protection.[12]

---

[1] Wendy Ginsberg & Daniel J. Richardson, Cong. Research Serv. RL34631, Former Presidents: Pensions, Office Allowances, and Other Federal Benefits 1 (March 2016) [hereinafter Cong. Research Serv., March 2016 Report].

[2] *Id.*

[3] *Id.*; 3 U.S.C. § 102, *note*.

[4] S. Rep. No. 85–47, at 2 (1957).

[5] 3 U.S.C. 102, *note*, Former Presidents; Allowance; Selection, Compensation, and Status of Office Staff; Office Space; Widow's Allowance, Termination; "Former President" Defined (a).

[6] Cong. Research Serv., March 2016 Report at 3.

[7] 3 U.S.C. § 102, *note*, Former Presidents; Allowance; Selection, Compensation, and Status of Office Staff; Office Space; Widow's Allowance, Termination; "Former President" Defined (e).

[8] 3 U.S.C. § 102, *note*, Former Presidents; Allowance; Selection, Compensation, and Status of Office Staff; Office Space; Widow's Allowance, Termination; "Former President" Defined (b), (c), and (g).

[9] Cong. Research Serv., March 2016 Report at 7–8. Mrs. Nancy Reagan waived the widow's pension upon her husband's death, pursuant to P.L. 85–745; however she received $6,000 towards franking privileges. *Id.* at 8.

[10] Cong. Research Serv., March 2016 Report at 5.

[11] *Id.* at 5.

[12] 3 U.S.C. § 102, *note;* Cong. Research Serv., March 2016 Report at 1–2.

Press reports indicate that former presidents have earned millions of dollars in speaking fees and book deals after leaving office.[13] The two most recent former presidents, President Clinton and President George W. Bush, have reportedly earned millions since leaving office, with President Clinton earning more than $100 million between 2001 and 2013,[14] and President George W. Bush earning at least $15 million for paid speeches since leaving office in 2009.[15] In addition to speaking fees, both former Presidents have reportedly benefited from book deals: President Clinton received a $15 million advance for his memoir in 2004[16] and President George W. Bush was paid $7 million for his memoir.[17]

S. 1411 would set the annual pension for a former president at $200,000, adjusted for inflation going forward. In addition, the legislation would set the annual allowance for office expenses at $200,000. This amount would be reduced by one dollar for every dollar a former President earns above $400,000. These amounts are subject to cost-of-living increases as provided for in the Social Security Act.

S. 1411 also increases the pension provided to a widow or widower of a former president—an amount that has gone unchanged since the original legislation was enacted in 1958—increasing the annual annuity from $20,000 to $100,000.

The Presidential Allowance Modernization Act of 2016 ensures that the Secret Service will work with GSA to determine the amount of the allowance that is needed to pay for the increased cost of doing business that is attributable to the security needs of the former president. Finally, S. 1411, as amended, would ensure that former presidents do not have to break existing lease agreements because of the reduction in benefits provided for in the legislation.

III. Legislative History

S. 1411, the Presidential Allowance Modernization Act of 2016, was introduced on May 21, 2015, by Senator Joni Ernst. Senators Mark Kirk and Marco Rubio cosponsored the bill. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1411 at a business meeting on February 10, 2016. During the business meeting, a substitute amendment by Senator Ernst was offered and adopted. Both the amendment and the legislation as modified were passed by voice vote with Senators Johnson, McCain, Portman, Paul, Lankford, Ayotte, Ernst, Sasse, Carper, McCaskill, Tester, Baldwin, Heitkamp, Booker, and Peters present.

---

[13] * * *

[14] Philip Rucker, Tom Hamburger, & Alexander Becker, *How the Clintons went from 'dead broke' to rich: Bill earned $104.9 million for speeches,* The Washington Post (June 26, 2014), https://www.washingtonpost.com/politics/how-the-clintons-went-from-dead-broke-to-rich-bill-earned-1049-million-for-speeches/2014/06/26/8fa0b372-fd3a-11e3-8176-f2c941cf35f1_story.html.

[15] Jennifer Epstein, *George W. Bush Made $15M on Speaking Circuit,* Politico (May 21, 2011), http://www.politico.com/news/stories/0511/55372.html.

[16] Mike McIntire, *Clintons Made $109 Million in Last 8 Years,* The New York Times (April 5, 2008), http://www.nytimes.com/2008/04/05/us/politics/05clintons.html.

[17] Lynn Sherr, *George W. Bush Lands $7 Million Book Deal,* The Daily Beast (March 19, 2009), http://www.thedailybeast.com/articles/2009/03/19/george-w-bush-lands-7-million-book-deal.html.

IV. Section-by-Section Analysis of the Bill, as Reported

Section 1. Short title

This section establishes the short title of the bill as the "Presidential Allowance Modernization Act."

Section 2. Amendments

This section sets the former presidential pension at $200,000 per year, plus the annual Social Security cost-of-living adjustment, and an additional monetary allowance of $200,000 per year. A former president is not eligible to collect the pension and allowance when serving in an appointive or elective office in the federal government.

The amount of the allowance would be reduced one dollar for every dollar a former president earns above $400,000 per year. It sets disclosure requirements to ensure the privacy of former presidents. It ensures that the Secret Service is consulted on security costs to determine the amount of the monetary allowance that is necessary to pay the increased cost of doing business that is attributable to the security needs of the former president.

This section also increases the pension for the surviving spouse of a former president from $20,000 a year to $100,000 annually, taking into account annual cost-of-living increases equal to those provided under the Social Security Act and includes a technical correction to make the recipient of such pension gender neutral.

Section 3. Rule of construction

This section clarifies and affirms that nothing in the legislation alters the funding of the security or protection of a former president.

Section 4. Transition rules

This section sets rules for implementing this legislation with respect to currently qualifying former presidents and their widows or widowers.

Section 5. Applicability

This section makes clear that the new reduction in monetary allowance should not apply to current former presidents in such a way as to make the former president break or have trouble paying a current lease.

V. Evaluation of Regulatory Impact

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 10, 2016.

Hon. RON JOHNSON, *Chairman,*
Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1411, the Presidential Allowance Modernization Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dan Ready.

Sincerely,

KEITH HALL.

Enclosure.

S. 1411—Presidential Allowance Modernization Act of 2015

Summary: S. 1411 would decrease the pensions of former Presidents, increase the pensions of surviving spouses of former Presidents, and limit the allowances provided to each former President for staff, office space, and other related expenses.

CBO estimates that implementing the legislation would reduce outlays by $11 million over the 2017–2021 period, assuming that appropriations are reduced by those amounts. Because enacting S. 1411 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 1411 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 1411 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

S. 1411 would impose a private-sector mandate, as defined in UMRA, by decreasing the pensions of former Presidents. The cost of complying with the mandate would be the total decrease in pension income earned by former Presidents (who left office before enactment of this bill) and would fall well below the annual threshold established in UMRA for private-sector mandates ($154 million in 2016, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 1411 is shown in the following table. The savings fall in budget function 800 (general government).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	−2	−3	−3	−3	−3	−13
Estimated Outlays	−2	−2	−2	−2	−2	−11

Note: Components may not sum to totals because of rounding.

Basis of estimate: Assuming S. 1411 will be enacted near the beginning of fiscal year 2017, CBO estimates that the legislation would save $11 million over the 2017–2021 period. Those savings arise from changes to Presidential pensions and allowances afforded to former Presidents.

Presidential pensions

Under the bill, the annual pensions provided to former Presidents would initially drop by about $6,000 to $200,000, while a surviving spouse's pension would increase from $20,000 to $100,000. Both of those annual amounts would be indexed to inflation. Assuming that the four former Presidents currently collecting a pension continue to do so and that President Obama would begin collecting a pension early in calendar year 2017, the bill's provisions affecting such benefits would result in a savings totaling less than $200,000 over the next five years, CBO estimates. (Currently, there are no surviving spouses of deceased former Presidents.)

Allowances for former Presidents

In 2016, $2.4 million was appropriated for allowances to former Presidents—an average of $600,000 per President. Such allowances are used to cover costs for offices, staff, supplies, and other services intended to help former Presidents perform duties related to their unofficial public status. S. 1411 would reduce that amount to a maximum of $200,000 per President, indexed to inflation. Allowances would decrease by $1 for every dollar over $400,000 a former President earned in the previous year, also indexed to inflation.

On the basis of publicly available information about the income of former Presidents in recent years, CBO expects that at least two former Presidents would earn enough that they would not be eligible for an allowance beginning in 2017. As a result, assuming appropriations are reduced by the necessary amounts each year and accounting for the retirement of President Obama (which affects part of the fiscal year), implementing the bill would save $1.8 million in 2017. The savings would grow to $2.2 million in 2018 when President Obama will have been retired for a full fiscal year, and would total $11 million over the 2017–2021 period. (If the President elected in 2016 leaves office on January 20, 2021, the savings would be slightly greater that year.)

Pay-As-You-Go considerations: None.

Estimated impact on state, local, and tribal governments: S. 1411 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: S. 1411 would impose a private-sector mandate, as defined in UMRA, by decreasing the pensions of former Presidents. Under current law, former Presidents receive an annual pension equal to the rate of basic pay for Cabinet Secretaries, which is about $206,000 for calendar year 2016. The bill would reduce an earned benefit of former Presidents by decreasing their federal pension to $200,000 per year, indexed to inflation. The cost of this mandate would be the total decrease in pension income earned by the former Presidents (who left office before enactment of this bill) and would fall well below the annual threshold established in UMRA for private-sector mandates ($154 million in 2016, adjusted annually for inflation).

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 1411 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Previous CBO estimate: On June 22, 2015, CBO transmitted an estimate for H.R. 1777, the Presidential Allowance Modernization Act of 2015, as ordered reported by the House Committee on Oversight and Government Reform on May 19, 2015. The two pieces of legislation are similar and CBO's estimates of the budgetary effects of the two are also similar.

Estimate prepared by: Federal Costs: Dan Ready; Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

FORMER PRESIDENTS ACT OF 1958

* * * * * * *

SEC. 102. COMPENSATION OF THE PRESIDENT

[(a) Each former President shall be entitled for the remainder of his life to receive from the United States a monetary allowance at a rate per annum, payable monthly by the Secretary of the Treasury, which is equal to the annual rate of basic pay, as in effect from time to time, of the head of an executive department, as defined in section 101 of title 5, United States Code. However, such allowance shall not be paid for any period during which such former President 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.

[(b) The Administrator of General Services shall, without regard to the civil-service and classification laws, provide for each former President an office staff. Persons employed under this subsection shall be selected by the former President and shall be responsible only to him for the performance of their duties. Each former President shall fix basic rates of compensation for persons employed for him under this paragraph which in the aggregate shall not exceed $96,000 per annum except that for the first 30-month period during which a former President is entitled to staff assistance under this subsection, such rates of compensation in the aggregate shall not exceed $150,000 per annum. The annual rate of compensation payable to any such person shall not exceed the highest annual rate of basic pay now or hereafter provided by law for positions at level II of the Executive Schedule under section 5313 of title 5, United States Code. Amounts provided for 'Allowances and Office Staff for Former Presidents' may be used to pay fees of an independent contractor who is not a member of the staff of the office of a former President for the review of Presidential records of a former President in connection with the transfer of such records to the National Archives and Records Administration or a Presidential Library without regard to the limitation on staff compensation set forth herein.

⟦(c) The Administrator of General Services shall furnish for each former President suitable office space appropriately furnished and equipped, as determined by the Administrator, at such place within the United States as the former President shall specify.

⟦(d) [Repealed. Pub. L. 86–682, § 12(c), Sept. 2, 1960, 74 Stat. 730. See sections 3214 and 3216 of title 39.]⟧

(a) IN GENERAL.—Each former President shall be entitled for the remainder of his or her life to receive from the United States—

(1) an annuity at the rate of $200,000 per year, subject to subsection (c); and

(2) a monetary allowance at the rate of $200,000 per year, subject to subsections (c) and (d).

(b) DURATION; FREQUENCY.—

(1) IN GENERAL.—The annuity and allowance under subsection (a) shall each—

(A) commence on the day after the date on which an individual becomes a former President;

(B) terminate on the date on which the former President dies; and

(C) be payable by the Secretary of the Treasury on a monthly basis.

(2) APPOINTEE OF ELECTIVE POSITIONS.—The annuity and allowance under subsection (a) shall not be payable for any period during which a former President holds an appointive or elective position in or under the Federal Government to which is attached a rate of pay other than a nominal rate.

(c) COST-OF-LIVING INCREASES.—Effective December 1 of each year; each annuity and allowance under subsection (a) that commenced before that date shall be increased by the same percentage by which benefit amounts under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased, effective as of that date, as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i)).

(d) LIMITATION ON MONETARY ALLOWANCE.—

(1) IN GENERAL.—Notwithstanding any other provision in this section, the monetary allowance payable under subsection (a)(2) to a former President for any 12-month period—

(A) except as provided in subparagraph (B), may not exceed the amount by which—

(i) the monetary allowance that (but for this subsection) would otherwise be so payable for such 12-month period; exceeds (if at all)

(ii) the applicable reduction amount for such 12-month period; and

(B) shall not be less than the amount determined under paragraph (4).

(2) DEFINITION.—

(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable reduction amount' means, with respect to any former President and in connection with any 12-month period, the amount by which—

(i) the sum of—

(I) the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the former President for the most recent taxable year for which a tax return is available; and

(II) any interest excluded from the gross income of the former President under section 103 of such Code for such taxable year, exceeds (if at all)

(ii) $400,000, subject to subparagraph (C).

(B) JOINT RETURNS.—In the case of a joint return, subclauses (I) and (II) of subparagraph (A)(i) shall be applied by taking into account both the amounts properly allocable to the former President and the amounts properly allocable to the spouse of the former President.

(C) COST-OF-LIVING INCREASES.—The dollar amount specified in subparagraph (A)(ii) shall be adjusted at the same time that, and by the same percentage by which, the monetary allowance of the former President is increased under subsection (c) (disregarding this subsection).

(3) DISCLOSURE REQUIREMENT.—

(A) DEFINITIONS.—In this paragraph—

(i) the terms 'return' and 'return information' have the meanings given those terms in section 6103(b) of the Internal Revenue Code of 1986; and

(ii) the term 'Secretary' means the Secretary of the Treasury or the Secretary of the Treasury's delegate.

(B) REQUIREMENT.—A former President may not receive a monetary allowance under subsection (a)(2) unless the former President discloses to the Secretary, upon the request of the Secretary, any return or return information of the former President or spouse of the former President that the Secretary determines is necessary for the purpose of calculating the applicable reduction amount under paragraph (2) of this subsection.

(C) CONFIDENTIALITY.—Except as provided in section 6103 of the Internal Revenue Code of 1986 and notwithstanding any other provision of law, the Secretary may not, with respect to a return or return information disclosed to the Secretary under subparagraph (B)—

(i) disclose the return or return information to any entity or person; or

(ii) use the return or return information for any purpose other than to calculate the applicable reduction amount under paragraph (2).

(4) INCREASED COSTS DUE TO SECURITY NEEDS.—With respect to the monetary allowance that would be payable to a former President under subsection (a)(2) for any 12-month period but for the limitation under paragraph (1), the Administrator of General Services, in coordination with the Director of the United States Secret Service, shall determine the amount of the allowance that is needed to pay the increased cost of doing business that is attributable to the security needs of the former President.

(e) *WIDOWS AND WIDOWERS.*—The [widow] *widow or widower* of each former President shall be entitled to receive from the United

States a monetary allowance at a rate of $20,000 per annum, payable monthly by the Secretary of the Treasury, if such [widow] *widow or widower* shall waive the right to each other annuity or pension to which [she] *she or he* is entitled under any other Act of Congress. The monetary allowance of such [widow] *widow or widower*—

* * * * * * *

(f) *DEFINITION.*—As used in this section, the term 'former President' means a person—

(1) * * *

(2) * * *

(3) * * *

(g) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Administrator of General Services up to $1,000,000 for each former President and up to $500,000 for the spouse of each former President each fiscal year for security and travel related expenses: Provided, That under the provisions set forth in section 3056, paragraph (a), subparagraph (3) of title 18, United States Code, the former President and/or spouse was not receiving protection for a lifetime provided by the United States Secret Service under section 3056 paragraph (a) subparagraph (3) of title 18, United States Code; the protection provided by the United States Secret Service expired at its designated time; or the protection provided by the United States Secret Service was declined prior to authorized expiration in lieu of these funds.

○