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REPORT
116–53

PRESIDENTIAL ALLOWANCE MODERNIZATION ACT OF 2019

REPORT

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 580

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 27, 2019.—Ordered to be printed

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JUNE 27, 2019.—Ordered to be printed

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

R E P O R T

[To accompany S. 580]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 580) 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. 580, the Presidential Allowance Modernization Act of 2016, amends the Former Presidents Act of 1958 (FPA) to modernize the monetary allowances and pensions payable to future former presidents.[1] Specifically, it revises provisions relating to presidential pensions to allow a future 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 future 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.[2] While some former presidents returned to comfortable lives after leaving office, others, like President Harry S. Truman, struggled financially.[3] 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.[4] The FPA was intended to "maintain the dignity" of the Office of the President.[5]

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.[6] This amount was $207,800 in fiscal year (FY) 2017 and increased to $213,600 in FY 2018.[7] Additionally, the FPA provides an annual pension of $20,000 to the widow of a former president.[8]

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.[9] The statutory obligation arises from Congress's recognition that former presidents should have funding to continue their required official business as former presidents.

In FY2019, Congress appropriated $4,796,000 million to GSA to cover the annual pensions and allowances for the then-five living former Presidents.[10] Of that total appropriation, $1.958 million went toward office space rentals, including $513,000 in rent for

[1] In the 114th Congress, the Committee approved, and the Senate passed, H.R. 1777, the Presidential Allowance Modernization Act of 2016. The bill was approved by the House and the Senate but vetoed by President Obama on July 22, 2016. In the 115th Congress, the Committee approved S. 1791, the Presidential Allowance Modernization Act of 2017. The House passed the companion to that legislation, H.R. 3739, in November 2017, but the bill never passed the Senate. The need for the legislation remains the same today, and some details of the legislation have changed to address concerns raised by former Presidents. Accordingly, substantial portions of section 2 of this report have been drawn from Senate Reports 114–271 and 115–211.

[2] 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].

[3] *Id.*

[4] *Id.*; 3 U.S.C. § 102, *note.*

[5] S. Rep. No. 85–47, at 2 (1957).

[6] 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).

[7] Off. of Personnel Mgmt., Salary Table No. 2019–EX. *See also* Off. of Personnel Mgmt., Salary Table No. 2017–EX. According to Salary Table No. 2019–EX, the 2019 Executive Schedule rates of pay remained at the same levels as in 2018.

[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 (e).

[9] *Id*. at (b), (c), and (g).

[10] Consolidated Appropriations Act, 2019, Pub. L. No. 116–6, Div. D, Title V (2019). *See also* Gen. Serv. Admin., FY 2019 Congressional Justification, FP–3–5 (Feb. 12, 2018).

former President Bill Clinton, $500,000 for former President George W. Bush, and $542,000 for former President Barack Obama.[11] According to GSA, non-pension costs for all of the benefits provided to former presidents totaled over $3.6 million for FY 2019.[12] For FY 2020, GSA requested $3,851,000 for the pensions and allowances for the four living former Presidents.[13]

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.[14]

Press reports indicate that former presidents have earned millions of dollars in speaking fees and book deals after leaving office. The three 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,[15] President George W. Bush earning at least $15 million for paid speeches since leaving office in 2009,[16] and President Barack Obama earning $400,000 per speech.[17] In addition to speaking fees, the former Presidents have reportedly benefited from book deals: President Clinton received a $15 million advance for his memoir in 2004,[18] President George W. Bush was paid $7 million for his memoir,[19] and former President Barack Obama and former First Lady Michelle Obama reportedly signed a joint contract with publishing house Random House for a $65 million advance.[20] The Obamas also signed a deal with streaming service Netflix to produce entertainment services and movies, although the value of that deal has not yet been disclosed, but other deals with Netflix reportedly earned $100 million for other high-profile producers.[21]

S. 580 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. The annual pension and allowance amounts set by this bill would only apply to future former presidents.

[11] Gen. Serv. Admin., FY 2019 Congressional Justification, FP–5 (Feb. 12, 2018).

[12] *Id*. at FP–4.

[13] Gen. Serv. Admin., FY 2020 Congressional Justification, FP–2–5 (Mar. 18, 2019). Former President George H.W. Bush passed away in November 2018.

[14] 3 U.S.C. § 102, *note*; Cong. Research Serv., March 2016 Report at 1–2.

[15] 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.

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

[17] Tony Owusu, *Barack Obama is Now Among 10 Highest-Paid Public Speakers*, TheStreet (Sept. 25, 2017), available at https://www.thestreet.com/story/14315669/1/highest-paid-public-speakers.html.

[18] 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.

[19] 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.

[20] Joe Ferullo, *Obama Netflix deal could revolutionize the 'second act' in Washington*, The Hill (May 7, 2019), *available at* https://thehill.com/opinion/white-house/442420-obama-netflix-deal-could-revolutionize-the-second-act-in-washington.

[21] *Id.*

S. 580 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 bill 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.

III. Legislative History

S. 580, the Presidential Allowance Modernization Act of 2019, was introduced on February 27, 2019, by Senator Joni Ernst. Senators Margaret Hassan, Michael Enzi, and Kyrsten Sinema cosponsored the bill. Senator Mike Braun later cosponsored the bill on March 11, 2019. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 580 at a business meeting on May 15, 2019. During the business meeting, a substitute amendment by Chairman Ron Johnson was offered and adopted. The substitute amendment added language to ensure the bill would only apply prospectively to future former presidents. Both the amendment and the legislation as modified were passed by voice vote *en bloc* with Senators Johnson, Paul, Lankford, Scott, Peters, Carper, Hassan, and Rosen present. For the record only, Senators Portman, Romney, Hawley, and Sinema later asked to be recorded as "yes" by unanimous consent.

Consistent with Committee rules, the Committee reports the bill with a technical amendment by mutual agreement of the Chairman and Ranking Member.

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 of 2019."

Section 2. Amendments

This section sets the former presidential pension for future former presidents 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 future 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 future 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 businesses 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. Applicability

This section makes clear that the new reduction in monetary allowance will not apply to current former presidents.

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, June 3, 2019.

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. 580, the Presidential Allowance Modernization Act of 2019.

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

Sincerely,

Phillip L. Swagel,
Director.

Enclosure.

S. 580, Presidential Allowance Modernization Act of 2019
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 15, 2019

Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	*
Revenues	0	0	0
Deficit Effect	0	0	*
Spending Subject to Appropriation (Outlays)	0	0	n.e.

		Mandate Effects	
Pay-as-you-go procedures apply?	Yes	Contains intergovernmental mandate?	No
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains private-sector mandate?	No

n.e. = not estimated; * = between -$500,000 and zero.

S. 580 would decrease the pensions of former Presidents. (CBO considers such payments to be direct spending.) The bill also would effectively eliminate their allowances for staff, office space, and related expenses. (CBO considers those types of payments to be spending subject to appropriation.) The bill would apply only to Presidents who enter office after the date of enactment.

Under current law, Presidents who leave office will receive an annual pension of between $220,000 and $280,000. The bill would reduce those amounts by about $25,000 for affected Presidents. Because that reduction would only apply to the pensions of Presidents who enter office after enactment, the earliest date it could affect spending would be in 2025. CBO estimates that the reduction in pensions would save less than $20,000 per year on average through 2029.

On April 9, 2019, CBO transmitted an estimate for H.R. 1496, the Presidential Allowance Modernization Act of 2019. Although some aspects of the bills are similar, H.R. 1496 would apply to both current and future Presidents whereas S. 580 would apply only to future Presidents. That difference is reflected in the cost estimates.

The CBO staff contact for this estimate is Dan Ready. The estimate was reviewed 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):

UNITED STATES CODE

* * * * * * *

TITLE 3—THE PRESIDENT

* * * * * * *

CHAPTER 2—OFFICE AND COMPENSATION OF PRESIDENT

* * * * * * *

SEC. 102. COMPENSATION OF THE PRESIDENT

* * * * * * *

AMENDMENTS

* * * * * * *

FORMER PRESIDENTS; ALLOWANCE; SELECTION, COMPENSATION, AND STATUS OF OFFICE STAFF; OFFICE SPACE; WIDOW'S ALLOWANCE, TERMINATION; "FORMER PRESIDENT" DEFINED

❲That (a) each❳

SECTION 1. FORMER PRESIDENTS LEAVING OFFICE BEFORE PRESIDENTIAL ALLOWANCE MODERNIZATION ACT OF 2019.

(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 6, 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.

* * * * * * *

(f) As used in this section, the term "former President" means a person—

(1) who shall have held office of the President of the United States of America;

(2) whose service in such office shall have ❲terminated other than❳ *terminated—*

(A) other than by removal pursuant to section 4 of article II of the Constitution of the United States of America; and

(B) on or before the date of enactment of the Presidential Allowance Modernization Act of 2019; and

(3) who does not currently hold such office.

SEC. 2. FORMER PRESIDENTS LEAVING OFFICE AFTER PRESIDENTIAL ALLOWANCE MODERNIZATION ACT OF 2019.

(a) ANNUITIES AND ALLOWANCES.—

(1) ANNUITY.—Each modern former President shall be entitled for the remainder of his or her life to receive from the United States an annuity at the rate of $200,000 per year, subject to subsections (b)(2) and (c), to be paid by the Secretary of the Treasury.

(2) ALLOWANCE.—The Administrator of General Services is authorized to provide each modern former President a monetary allowance at the rate of $200,000 per year, subject to the availability of appropriations and subsections (b)(2), (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 modern former President;

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

(C) be payable on a monthly basis.

(2) APPOINTIVE OR ELECTIVE POSITIONS.—The annuity and allowance under subsection (a) shall not be payable for any period during which a modern 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 of this section, the monetary allowance payable under subsection (a)(2) to a modern former President for any 12-month period—

(A) except as provided un 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

(iii) 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 modern 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 1966) of the modern 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 modern former President under section 103 of such Code for such taxable year, exceeds (if at all)

(iii) $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 modern former President and the amounts properly allocable to the spouse of the modern 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 modern former President is increased under subsection (c) (disregarding this subsection).

(3) DISCLOSURE REQUIREMENT.

(A) DEFINITIONS.—In this paragraph—

(i) the terms "returns" and "return information" have the same 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 modern former President may not receive a monetary allowance under subsection (a)(2) unless the modern former President discloses to the Secretary, upon the request of the Secretary, any return or return information of the modern former President or spouse of the modern former President that the Secretary determines is necessary for purposes 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 modern former President under subsection (a)(2) for any 12-month period but for the limitation under paragraph (1)(A) of this subsection, 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 modern former President.

(e) WIDOWS AND WIDOWERS.—The widow or widower of each modern former President shall be entitled to receive from the United States a monetary allowance at a rate of $100,000 per year (subject to paragraph (4)), payable monthly by the Secretary of the Treasury, if such widow or widower shall waive the right to each other annuity or pension to which she or he is entitled under any other Act of Congress. The monetary allowance of such widow or widower—

(1) commences on the day after the modern former President dies;

(2) terminates on the last day of the month before such widow or widower—

(A) dies; or

(B) remarries before becoming 60 years of age;

(3) is not payable for any period during which such widow or widower holds an appointive or elective office or position in or under the Federal Government to which is attached a rate of pay other than a nominal rate; and

(4) shall, after its commencement date, be increased at the same time that, and by the same percentage by which, annuities of modern former Presidents are increased under subsection (c).

(f) DEFINITION.—In this section, the term "modern former President" means a person—

(1) who shall have held the office of the President of the United States of America;

(2) whose service in such office shall have terminated—

(A) other than by removal pursuant to section 4 of article II of the Constitution of the United States of America; and

(B) after the date of enactment of the Presidential Allowance Modernization Act of 2019; and

(3) who does not then currently hold such office.

[*g*] *SECTION 3. AUTHORIZATION OF APPROPRIATIONS.*

There are authorized to be appropriated to the Administrator of General Services up to $1,000,000 for each former President *or modern former President* and up to $500,000 for the spouse of each former President *or modern 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 *or modern 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.

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