

**H J R**

**19**

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER HJR 19

SPONSOR Martin

BILL TITLE Amend U.S. Constitution RE compensation  
of members of U.S. Congress

DATE REFERRED 5-1-89

HEARING SCHEDULED 5-3-89

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED

John Manley  
3783

INTERESTED PARTIES CONTACTED

OTHER

HJR 19      RATIFY CONSTITUTIONAL AMENDMENT CONCERNING  
CONGRESSIONAL PAY

TO TESTIFY

REP. MARTIN, SPONSOR      (JOHN MANLEY)

↳ still on floor so Sen Coghill will be here.  
I need to call his office when it  
comes up.

F.Y.I.

ACCORDING TO MARTIN, THIS WAS ONE OF 14 AMENDMENTS INTRODUCED IN  
THE FIRST CONGRESS. TEN WERE ACCEPTED (YOU KNOW THAT), TWO  
REJECTED, AND HJR 19 IS ONE OF TWO ON WHICH NO TIME LIMIT WAS  
PLACED ON ACCEPTANCE BY VOTE OF CONGRESS OF BY 2/3 OF THE STATES.

SO FAR 25 OF THE NECESSARY 38 STATES HAVE RATIFIED (18 SINCE  
1978) -- LIST IN PACKET.

# Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman  
Sen. Al Adams  
Sen. Tim Kelly  
Sen. Rick Uehling



P.O. Box V  
State Capitol  
Juneau, Alaska 99811

907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senate State Affairs Committee  
FROM: Senator Pat Pourchot, Chairman  
RE: May 3 Committee Hearing  
DATE: May 2, 1989

On Wednesday, May 3 at 1:30 p.m. in the Beltz Room the following bills will be back before the Senate State Affairs Committee:

#### SB 154, An Act relating to equipment lease-financing and authorizing a master equipment lease-financing project

SB 154 would authorize the Alaska State Building Authority to finance and acquire equipment for lease to the state. Individual lease-purchases from all state agencies would be consolidated into one or more "master leases". The advantage would be a reduction in interest cost.

At our earlier hearing on SB 154, there was concern that savings realized by state agencies through a master lease not be spent on other agency budget items, but used to reduce agency budgets. Attached is an amendment that would require the Department of Administration to annually report lease savings to the legislature on an agency-by-agency basis, thus allowing the legislature the opportunity to reduce agency budgets accordingly.

#### SB 157, An Act relating to imposition of a civil fine for violation of a statute, regulation, or ordinance related to alcoholic beverages

SB 157 would authorize the Alcohol Beverage Control Board to assess civil fines against liquor licensees who violate liquor laws. As introduced, the bill did not specify the amount of the fines, leaving fine setting to the sole discretion of the board.

Attached is an amendment which would require the ABC Board to establish a schedule of fines in regulation, and would limit any fine to the greater of \$100,000 or an amount which is three times the pecuniary gain realized by the licensee as a result of the violation. This is patterned after the existing provision in Alaska's criminal code regarding fines.

In addition, the following bills will be heard:

HJR 19am, Ratifying an amendment to the Constitution of the United States concerning the compensation of members of the United States Congress

HJR 19 would ratify an amendment to the U.S. Constitution that would disallow any increases in pay for members of Congress from going into effect until after an intervening election had taken place. The amendment was proposed in 1789 and to date has been ratified by 26 states. To become effective, it must be approved by 38 states.

CSHB 83(Fin), An Act relating to legal holidays; and establishing Martin Luther King, Jr., Day as a legal holiday

HB 83 would establish the third Monday of January, known as Martin Luther King, Jr.'s Birthday, as a legal holiday. Lincoln's and Washington's birthdays would be combined on the third Monday in February as President's Day. This would result in an observance for Dr. King without the addition of another paid day of leave.

The bill also provides that King's birthday would be a legal holiday for state employees only if provided for in their collective bargaining agreements.

Martin Luther King Day was statutorially established as a day of commemoration in 1982. Governor Cowper issued a proclamation in January 1989 designating it a legal holiday for this year.

CSHB 87(Fin)am, An Act relating to the state budget and to long-term financial plans for the state

HB 87 would require that the Governor annually submit to the legislature a long-term financial plan. The plan must include projections of expenditures for the next six fiscal years and projections of revenues for the next ten fiscal years. The legislature would be required to adopt or revise the plan.

In addition, HB 87 would require that the Governor's annual capital improvements proposal include the estimated annual maintenance and operation costs for the useful life of each project.

REP. TERRY MARTIN

ELECTIVE DISTRICT 13  
MOUNTAIN VIEW  
RUSSIAN JACK SPRINGS  
NUNAKA VALLEY  
ELMENDORF A.F.B.  
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DURING SESSION  
P. O. BOX V  
STATE CAPITOL BUILDING  
JUNEAU, AK 99811  
PHONE 465-3783

Alaska House of Representatives

May 1, 1989

MEMORANDUM

To: Senator Pat Pourchot, Chairman  
Senate Committee on State Affairs

From: Representative Terry Martin *T.M.*

Subject: HJR 19 - Congressional Pay Raise Amendment

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HJR 19 passed the House on Saturday, and was referred this morning to your committee. I hope you will be able to schedule it expeditiously for a hearing, so that it can pass the Senate before we adjourn next week.

This resolution would ratify an amendment to the United States Constitution that would disallow any increases in compensation for members of Congress from going into effect until after an intervening election had taken place. The amendment was first proposed by James Madison 200 years ago along with those amendments that became the Bill of Rights. There has been increasing interest in the amendment in recent years, prompted in large part by wide public outcry at attempts by the Congress to raise salaries. Nineteen of the 26 states that have ratified the amendment to date have done so just since 1978.

I hope the background information attached will be sufficient for your committee's consideration of the resolution, and that you will be able to take it up this session. If you need any further information, please contact me or my staff. Thank you.



SENATE COMMITTEE REPORT

FURTHER

5/1/89

DATE TURNED INTO OFFICE

5-4-89

Mr. President:

STATE AFFAIRS

Committee considered

HJR 19 am

ratifying an amendment to the Constitution of the United States concerning the compensation of members of the United States Congress

and recommended

- replace with \_\_\_\_\_ CS \_\_\_\_\_ )  same title
- or adopt \_\_\_\_\_ CS \_\_\_\_\_ )  new title
- attached amendment(s) and \_\_\_\_\_ )  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

FISCAL NOTE(S)  zero  fiscal impact  appropriation no FN  
 new  updated  previous  
 same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS /SIGNING/ DO PASS

OTHER RECOMMENDATIONS

*Janis Hieb*  
*Tim Kell*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
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*Pat [Signature]*  
 Chair signature and recommendation

Committee Backup attached

**STATE OF ALASKA  
1989 LEGISLATIVE SESSION**

BILL VERSION: HJR 19  
PUBLISH DATE: HOUSE 4/11/89

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: \_\_\_\_\_  
 Title: Compensation for Members  
of US Congress BRU: \_\_\_\_\_  
 Sponsor: Martin Gruenberg Components: \_\_\_\_\_  
 Requester: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

No fiscal impact.

Prepared by: House State Affairs Committee Phone: 465-4963  
 Division: \_\_\_\_\_ Date: April 7, 1989  
 Approved by Commissioner: Rep. H.A. "Red" Eoucher Date: April 7, 1989  
 Agency: \_\_\_\_\_

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requester
- Office of Management and Budget
- Impacted Agency(ies)

## REP. TERRY MARTIN

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### Alaska House of Representatives

#### HJR 19 - Congressional Pay Raises

The history of the making of America is a magnificent story of the faith, hopes and dreams of her colonists and the fulfillment of those ideologies that made America stand out as a symbol to all other nations, societies and their people to emulate.

Some of the suggestions for a more perfect union were based on a pragmatic knowledge and experience in dealing with human nature - its strength and weaknesses. Thus it was compelled upon the first Congress to reinstate the intentions of the Declaration of Independence, written thirteen years earlier, as amendments to acceptance of the new constitution of the United States.

Originally, there were fourteen amendments introduced. Two were readily rejected by the new Congress, and ten were just as readily adopted. We know these as the Bill of Rights. Of the two remaining amendments, there was no time limit placed on their acceptance by vote of Congress or by 2/3 of the states comprising the Union.

Although our founding fathers were extremely farsighted thinkers - and doers - none conceived the extension of America to embrace land as far west and north as this place called Alaska. Nor did they perceive it would take two hundred years for the approval and implementation of this original eleventh amendment.

Be that as it may, we now have an historic opportunity to fulfill the perceptions of the founding fathers and joining them in completing one more link in making our country and its democratic-republican form of government a more perfect union.

Yes, the gate is open for Alaska to be part of the original decision-making of our forefathers - to share in their wisdom - by passing this simple amendment. It would allow the Congress to raise its salary if it wants, but would give the public the opportunity to express its approval or disapproval at an election before the raise takes effect.

None of us truly wants our elected officials to have to work for little compensation. Yet, at the same time, there is a natural, inherent discomfort with allowing public officials access to the treasury. Our forefathers recognized this troublesome dilemma - but probably never would have predicted the convoluted debacle we recently witnessed - and their amendment reconciles it. I hope you will join me in supporting it.



July 1988

CURRENT STATUS OF CONGRESSIONAL PAY AMENDMENT  
OF 1789

"Article the second...No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."

In order to become the 27th Amendment, the proposal must be ratified by three-fourths (3/4) of the legislatures of the several states. With fifty (50) states currently in the Union, this means that thirty-eight (38) must approve the measure.

Thus far, here is the progress:

1. Maryland on December 19, 1789;
2. North Carolina on December 22, 1789;
3. South Carolina on January 19, 1790;
4. Delaware on January 28, 1790;
5. Vermont on November 3, 1791;
6. Virginia on December 15, 1791;
7. Ohio on May 6, 1873;
8. Wyoming on March 3, 1978;
9. Maine on April 27, 1983;
10. Colorado on April 18, 1984;
11. South Dakota on February 21, 1985;
12. New Hampshire on March 7, 1985;
13. Arizona on April 3, 1985;
14. Tennessee on May 23, 1985;
15. Oklahoma on July 10, 1985;
16. New Mexico on February 13, 1986;
17. Indiana on February 19, 1986;
18. Utah on February 25, 1986;
19. Arkansas on March 5, 1987;
20. Montana on March 11, 1987;
21. Connecticut on May 13, 1987;
22. Wisconsin on June 30, 1987;
23. Georgia on February 2, 1988;
24. West Virginia on March 10, 1988; and
25. Louisiana on July 6, 1988.

In the following states, ratifying resolutions passed one (1) chamber of the legislature:

1. Idaho (passed Senate in 1987);
2. Illinois (passed House of Representatives in 1988);
3. North Dakota (passed House of Representatives in 1987); and
4. Texas (passed House of Representatives in 1987).



*James Madison*

James Madison (1751-1836) was the eldest son of a Virginia planter who had a large plantation now known as Montpelier in Orange County, Virginia. Madison's educational advantages were excellent, both in depth and in breadth. He entered Princeton in 1769 and came under the discipline of its president, the Reverend John Witherspoon, who primed the scholarly mind of Madison much as George Wythe had done to Jefferson. Unfortunately, however, he was frail in health, and the long and intensive studies left their mark. In addition to the usual classics of Greek and Latin, Madison spent a year studying Hebrew in order to better understand the Old Testament. For a while he seriously considered the possibility of entering the ministry, but changed his mind and began preparing for the legal profession and public life.

By this time, the conflict with England began to loom large on the horizon and Madison applied for membership in the state militia. However, he was rejected because of his physical disabilities and therefore took no active part in the Revolutionary War. Nevertheless, in 1774 he

was appointed a member of the Committee of Public Safety for Orange County, and in 1776 he was elected a delegate to the convention which framed the constitution of Virginia. He succeeded in providing a clause in the Virginia Bill of Rights guaranteeing the "free exercise of religion."

Jefferson considered James Madison and James Monroe the two young intellectuals who had the greatest promise in promoting the principles of the new American republic. Probably no Virginian was more helpful to Jefferson in getting his reforms of the civil and criminal law implemented than James Madison.

While still under 30, he was chosen as a delegate to the Continental Congress, and gained the reputation of being the most able political leader in attendance at that time. He opposed the issuance of paper money by the states, argued mightily for the right of Congress to tax imports, and supported the right of the states to navigate the Mississippi. He argued for a stronger central government that could enforce its decrees and raise the funds to maintain itself. Because a delegate could serve only one term, he returned to Virginia in 1784 and was immediately elected to the state assembly. With Washington's support, he succeeded in arranging a conference between Virginia and Maryland to settle disputes over fishing rights and ports of entry. This led to the Annapolis Convention in 1786. Thereafter Madison joined with Hamilton to get Congress to authorize the Constitutional Convention in 1787.

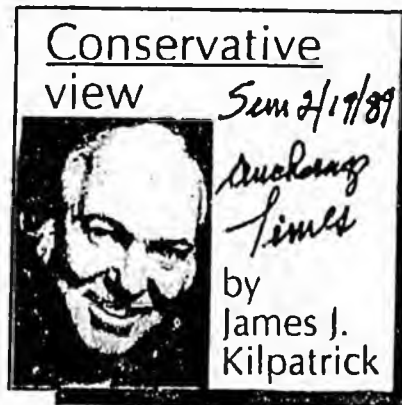
# And Iowa makes 26 and the march goes on!

WASHINGTON — James Madison is in his grave, but a constitutional amendment he sponsored in 1789 goes marching on. The event went almost wholly unreported in the news, but on Feb. 7, Iowa became the 26th state to ratify the "put off the pay raise" amendment.

This is beginning to get exciting. To recapitulate a story that most of the country knows nothing about, Congress in September 1789 approved 12 proposed amendments to the Constitution. By 1791, 10 of them had been ratified by the states; we know them as the Bill of Rights. Two of the proposals failed of ratification at that time. One dealt with apportionment of the House of Representatives and is of no current interest.

This was the forgotten 12th: "No law varying the compensation for the services of the senators and representatives shall take effect until an election of representatives shall have intervened."

It is marvelously simple, is it not? Thirty states have similar provisions affecting their own state legislatures. If the amendment had been part of the Constitution a few weeks ago, members of Congress might have voted a substantial raise in their compensation — but they could not have received it until after the congressional elections of



1990.

All but one constitutional amendment since the 18th Amendment of 1919 has carried a kind of statute of limitation: The article would be inoperative unless it were ratified within seven years of submission to the states. Madison's proposed amendment of 1789 carried no such limitation.

It is a nice constitutional question if the 200-year-old proposal is still validly before the states. In what is known as the Dillon case of 1921, the Supreme Court approved the power of Congress to fix a seven-year period for ratification. In the process the court threw cold water on the idea that resolutions of amendment could stay alive forever. That view, said Justice Van Devanter for a unanimous court, is "quite untenable." These comments were dicta, not relevant to the question before the court, which had

to do with the 18th (Prohibition) Amendment.

The matter came up again in 1939 in the case of *Coleman v. Miller*. The case involved an open-ended amendment to prohibit child labor, submitted to the states by Congress in 1924. Was it still subject to ratification in 1937? This time the court backed away from the digressive pronouncements in *Dillon*. The viability of a constitutional amendment, said Hughes for the majority, is a political question, not a judicial question.

Thus the constitutional question is very much alive. My thought is that the amendment itself is also alive. Six states (Maryland, North Carolina, South Carolina, Delaware, Vermont and Virginia) ratified between December 1789 and December 1791. Ohio suddenly came to life and ratified in 1873. Wyoming came along in 1978.

Then the forgotten amendment picked up steam. Maine ratified in 1983, Colorado in 1984. Five states joined the parade in 1985: South Dakota, New Hampshire, Arizona, Tennessee and Oklahoma. The following year saw three more: New Mexico, Utah and Indiana.

The movement toward ratification now is rolling steadily along. Arkansas, Montana, Connecticut and Wisconsin ratified in 1987; Georgia, West Virginia and Louisiana gave their consent in

1988. And on Feb. 7 Iowa shouted its approval by 44-0 in the state Senate, 86-2 in the House of Representatives.

Thirty-eight states must ratify an amendment in order for it to become part of the Constitution. Iowa is No. 26. Idaho is virtually certain to make the count 27 (the proposition was approved in a state referendum last November). If the magic number of 38 is attained it will be up to someone — or some body — to declare the amendment officially promulgated. That could be the archivist of the United States, on advice of the attorney general. Congress itself apparently has no more say-so in the matter.

My own thought is to whoop it up for the necessary 38. Madison in 1789 defended the measure: "There is a seeming impropriety in leaving any set of men without control to put their hand into the public coffers, to take out money to put in their pockets. There is a seeming indecorum in such power, which leads me to propose a change."

A seeming impropriety? A seeming indecorum? In the past month the American people have spoken in unmistakable language to the point. No raise without an intervening election! And thank you, Mr. Madison.

*James J. Kilpatrick is a conservative of thought and a conservator of language.*

*Auch Times 2/5/89*

## Two-hundred-year-old pay amendment still alive

WASHINGTON — It is too late, if I am not grievously mistaken, to halt the unwarranted pay raise for members of Congress. Capitol Hill resounds with the choo-choo noises of a freight train coming through. The 51 percent raise is a done deal, but the people may be able to derail another such express in 1993. The people could amend the Constitution.

Hah! you say. Two-thirds of the House and two-thirds of the Senate never would submit a constitutional amendment that might adversely affect their paychecks. Getting two-thirds of the state legislatures to apply for a constitutional convention is an equally impossible task.

But hold on. It has been almost forgotten, but a constitutional amendment already is actively pending that might accomplish political wonders. The story has received amazingly little attention.

Turn back the pages of history to September 1789. The First Congress then approved 12 constitutional amendments and sent them out to the states for ratification. Ten of them were swiftly approved. They became part of the Constitution in 1791. We know these 10, of course, as the Bill of Rights.

The other two failed of ratification. One of them proposed a formula for membership in the House. The other went to the

### Conservative view



by  
James J.  
Kilpatrick

matter at hand. This is the text:

"No law varying the compensation for the services of the senators and representatives shall take effect until an election of representatives shall have intervened."

Unlike more recent proposals, this amendment carried no seven-year limitation on ratification by the states. After nearly 200 years it is still on the table.

Back in 1790, six states ratified the amendment — Maryland, North Carolina, South Carolina, Delaware, Vermont and Virginia. Nothing more was heard of the matter until 1816, when a public outcry arose against a raise in congressional pay from \$6 a day to \$1,500 a year. There was talk of resurrecting the amendment, but apparently it was talk only.

The amendment went back to sleep. Then it suddenly came back to life in 1873, when the Ohio

legislature ratified. Perhaps some Ohio historian may know what provoked Ohio into action. In any event, Ohio made seven.

A century passed. In 1978, Wyoming discovered the forgotten amendment and gave its approval. Maine ratified in 1983, Colorado in 1984. Then the parade picked up steam. South Dakota, New Hampshire, Arizona, Tennessee and Oklahoma fell in line in 1985. The following year saw New Mexico, Indiana and Utah joining in. In 1987, three more: Montana, Connecticut and Wisconsin.

That brings us to 21 states. To become part of the Constitution, the ratifications of another 17 states would be needed. Considering the uproar against the pending pay raises, this goal would not appear to be an impossible undertaking.

To be sure, questions might be raised that the Supreme Court would have to resolve. During the pendency of the ill-fated Equal Rights Amendment, much talk was heard of "contemporaneity." Should an act of Maryland in 1790, or an act of Ohio in 1873, be regarded as sufficiently contemporaneous to be counted? My own thought is that the actions of ratifying states over the past 10 years establish the viability of the pay raise amendment.

The long-pending proposition would apply to any act "varying the compensation" of members.

It might be argued that the act of 1967 creating the Quadrennial Commission was not such an act. Such a contention would be disingenuous. The whole purpose of the 1967 act was to provide a means for varying the compensation of members.

Mind you, the amendment, if ratified, would not absolutely prevent a raise for senators and representatives. Its deterrent mechanism is wholly political. Candidates for seats in the House would have to go to the polls before an increase in compensation could go into effect. The presumption is that voters would make an issue of a pay raise, and that candidates would have to take a stand for or against the idea.

Suppose the hoary proposition were now a part of the Constitution. Through the machinery of the 1967 Quad Commission law, the pending raise would increase congressional salaries from \$89,500 to \$135,000. But under the amendment, the raise could not take effect until after the House elections of 1990.

Maybe the voters would love their senators and representatives so dearly that they would vote no one out of office, but I wouldn't bet the ranch on that proposition. It's worth a try. Seventeen states to go!

*James J. Kilpatrick is a conservative of thought and a conservator of language.*

# Congressional pay has been hot topic for 200 years

By LAWRENCE L. KNUTSON  
Associated Press

WASHINGTON — The public outcry over the proposed 31 percent pay increase for members of Congress should hardly be surprising.

Americans have been objecting to congressional pay raises for nearly all of the 200-year history of the Senate and House of Representatives.

Alexis de Tocqueville, a close observer of American life, offered an explanation in his 1835 study, "Democracy in America."

His conclusion: Democracies are far more stingy than other forms of government when it comes to paying high-ranking officials.

Part of the reason, de Tocqueville wrote, is that a salary level which seems inadequate to the official receive

## Analysis

ing it "appears enormous to him whose wants do not extend beyond the necessities of life."

"When he reflects on own humble dwelling and the small earnings of his hard toil, he remembers all he could do with a salary which you judge insufficient, and he is startled and almost frightened at the view of so much wealth," he said.

More than 150 years later, little has changed.

"We have never had a satisfactory method for setting compensation for high government officials," says Senate Majority Leader George Mitchell, D-Maine. "We still do not.

"If contemporary public opinion

were the sole determinant, the pay of members of Congress today would be the same as it was in 1789."

The root of the problem is in the Constitution.

Article I, Section 6 provides: "Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States."

That sounds well enough in theory.

But in practice it leaves the question of congressional pay levels up to Congress itself, posing an always sensitive, uncomfortable and sometimes politically explosive problem.

Some of the framers of the Constitution thought it would give members of Congress a license to steal. Others argued that pressure from incensed constituents would rein in greedy impulses.

The issue has always been approached gingerly at best.

"Bringing up the pay raise issue is about as welcome in a legislative body as a skunk is at a Sunday school picnic," says Sen. Charles E. Grassley, R-Iowa.

The first major American squabble over a proposal to raise the pay of members of Congress arose in 1816 and it set back the early political career of Daniel Webster, who later was to become a famous orator, senator, and secretary of state.

From the convening of the 1st Congress in 1789 until 1816, a 27-year span, members of Congress were paid at the rate of \$6 a day — with attempts made from time to time to dock the pay of absentees.

In 1816 Congress ended the day-by-day payments and adopted an annual

salary of \$1,500 a year.

The result: public outrage.

Nine members of Congress resigned and several were defeated in the 1816 elections.

Webster was one of those ousted in the pay-raise revolt.

It took him until 1822 to persuade the voters to send him back to Capitol Hill.

The present congressional salary: \$89,500.

The proposal by an independent commission: Increase it to \$135,000 to more nearly approach the compensation offered in the private sector to lawyers, corporate executives and others with similar responsibilities.

The Senate has already rejected the raise, 95-0.

The prospects — as usual — are highly uncertain.

## Distribution

To: All members of the State Affairs Committee  
From: Representative Terry Martin  
Date: February 8, 1989  
Subject: HJR 19 - Ratifying an amendment to the United States Constitution concerning compensation to members of the United States Congress