

(R.S. § 39.)

## CODIFICATION

R.S. § 39 derived from Res. Mar. 29, 1867, No. 18, 15 Stat. 24.

**§ 35a. End-of-the-month salary payment schedule inapplicable to Senators**

Section 35 of this title shall not be construed as being applicable to a Senator.

(Pub. L. 97-51, §112(c), Oct. 1, 1981, 95 Stat. 963.)

## CODIFICATION

Provisions of subsec. (c) of section 112 of Pub. L. 97-51 that such subsec. (c) would apply on and after the effective date of the amendments and repeals made by section 112 of Pub. L. 97-51 were omitted in the codification of this section since their impact was identical to that of the effective date provisions of subsec. (e) of section 112 of Pub. L. 97-51, set out as an Effective Date of 1981 Amendment note under section 33 of this title. See Effective Date note below.

## EFFECTIVE DATE

Section effective in the case of compensation payable for months after December 1981, see section 112(e) of Pub. L. 97-51, set out as an Effective Date of 1981 Amendment note under section 33 of this title.

**§ 36. Salaries of Senators**

Salaries of Senators appointed to fill vacancies in the Senate shall commence on the day of their appointment and continue until their successors are elected and qualified: *Provided*, That when Senators have been elected during a sine die adjournment of the Senate to succeed appointees, the salaries of Senators so elected shall commence on the day following their election.

Salaries of Senators elected during a session to succeed appointees shall commence on the day they qualify: *Provided*, That when Senators have been elected during a session to succeed appointees, but have not qualified, the salaries of Senators so elected shall commence on the day following the sine die adjournment of the Senate.

When no appointments have been made the salaries of Senators elected to fill such vacancies shall commence on the day following their election.

(Feb. 10, 1923, ch. 68, 42 Stat. 1225; Feb. 6, 1931, ch. 111, 46 Stat. 1065; June 19, 1934, ch. 648, title I, §1, 48 Stat. 1022; Feb. 13, 1935, ch. 6, §1, 49 Stat. 22, 23.)

## PRIOR PROVISIONS

July 31, 1894, ch. 174, 28 Stat. 162.  
R.S. § 51.

## AMENDMENTS

1935—Act Feb. 13, 1935, inserted proviso as to commencement of salaries of Senators elected during a sine die adjournment on day following their election and provision as to commencement of salaries of Senators elected during a session to succeed appointees on day they qualify but that upon failure to qualify their salaries are to commence on day following sine die adjournment of Senate and struck out provision that salaries of Senators elected to fill vacancies are to commence on day they qualify.

1934—Act June 19, 1934, made nonsubstantive changes in grammar and punctuation.

1931—Act Feb. 6, 1931, made nonsubstantive changes in grammar and punctuation and struck out “to fill such vacancies” after “When no appointments have been made”.

## CONSTITUTIONAL PROVISIONS

The first section of amendment XX to the Constitution provides in part: “\* \* \* the terms of Senators and Representatives [shall end] at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.”

**§ 36a. Payment of sums due deceased Senators and Senate personnel**

Under regulations prescribed by the Secretary of the Senate, a person serving as a Senator or officer or employee whose compensation is disbursed by the Secretary of the Senate may designate a beneficiary or beneficiaries to be paid any unpaid balance of salary or other sums due such person at the time of his death. When any person dies while so serving, any such unpaid balance shall be paid by the disbursing officer of the Senate to the designated beneficiary or beneficiaries. If no designation has been made, such unpaid balance shall be paid to the widow or widower of that person, or if there is no widow or widower, to the next of kin or heirs at law of that person.

Section 50 of the Revised Statutes<sup>1</sup> shall not be effective as to persons included within the foregoing.

(Jan. 6, 1951, ch. 1213, Ch. I, §1, 64 Stat. 1224; Pub. L. 92-607, ch. V, §503, Oct. 31, 1972, 86 Stat. 1505.)

## REFERENCES IN TEXT

Section 50 of the Revised Statutes, referred to in text, was classified to section 38 of this title and was repealed by Pub. L. 104-186, title II, §203(4), Aug. 20, 1996, 110 Stat. 1725. See section 38a of this title.

## AMENDMENTS

1972—Pub. L. 92-607 inserted provisions for designation of a beneficiary by Senators and officers and employees whose compensation is disbursed by Secretary of Senate to whom shall be paid any unpaid balance of salary or other sums due such person at time of death.

**§ 37. Salaries of Representatives, Delegates, and Resident Commissioners elected for unexpired terms**

The salaries of Representatives in Congress, Delegates from Territories, and Resident Commissioners, elected for unexpired terms, shall commence on the date of their election and not before.

(July 16, 1914, ch. 141, §1, 38 Stat. 458.)

**§ 38. Repealed. Pub. L. 104-186, title II, § 203(4), Aug. 20, 1996, 110 Stat. 1725**

Section, R.S. §§49, 50; acts Jan. 20, 1874, ch. 11, 18 Stat. 4; Mar. 4, 1925, ch. 549, §4, 43 Stat. 1301, related to pay of member dying after commencement of Congress. See section 38a of this title.

**§ 38a. Disposition of unpaid salary and other sums on death of Representative or Resident Commissioner**

When any individual who has been elected a Member of, or Resident Commissioner to, the

<sup>1</sup>See References in Text note below.

House of Representatives dies after the commencement of the Congress to which he has been elected, any unpaid balance of salary and other sums due such individual shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and such payment shall be a bar to the recovery by any other person of amounts so paid:

First, to the beneficiary or beneficiaries designated by such individual in writing to receive such unpaid balance and other sums due filed with the Chief Administrative Officer of the House of Representatives and received by the Chief Administrative Officer prior to such individual's death;

Second, if there be no such beneficiary, to the widow or widower of such individual;

Third, if there be no beneficiary or surviving spouse, to the child or children of such individual, and descendants of deceased children, by representation;

Fourth, if none of the above, to the parents of such individual, or the survivor of them;

Fifth, if there be none of the above, to the duly appointed legal representative of the estate of the deceased individual, or if there be none, to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased individual.

(July 2, 1954, ch. 455, title I, §105, 68 Stat. 409; Pub. L. 86-102, July 23, 1959, 73 Stat. 224; Pub. L. 104-186, title II, §203(5), Aug. 20, 1996, 110 Stat. 1725.)

#### AMENDMENTS

1996—Pub. L. 104-186 struck out “(including amounts held in the trust fund account in the office of the Sergeant at Arms)” after “due such individual” in first undesignated par. and substituted “Chief Administrative Officer of the House of Representatives and received by the Chief Administrative Officer” for “Sergeant at Arms, and received by the Sergeant at Arms” in second undesignated par.

1959—Pub. L. 86-102 inserted provisions including amounts held in trust fund account, authorizing an individual to designate a beneficiary or beneficiaries, and prescribing order of precedence in cases where no designation of beneficiary has been made.

#### § 38b. Death gratuity payments as gifts

Any death gratuity payment at any time specifically appropriated by any Act of Congress or at any time made out of the applicable accounts of the House of Representatives or the contingent fund of the Senate shall be held to have been a gift.

(June 5, 1952, ch. 369, Ch. I, 66 Stat. 101; Pub. L. 104-186, title II, §203(6), Aug. 20, 1996, 110 Stat. 1725.)

#### CODIFICATION

Section is also set out as section 125a of this title.

#### AMENDMENTS

1996—Pub. L. 104-186 substituted “applicable accounts of the House of Representatives or the contingent fund” for “contingent fund of the House of Representatives or”.

#### § 39. Deductions for absence

The Chief Administrative Officer of the House of Representatives (upon certification by the

Clerk of the House of Representatives) shall deduct from the monthly payments (or other periodic payments authorized by law) of each Member or Delegate the amount of his salary for each day that he has been absent from the House, unless such Member or Delegate assigns as the reason for such absence the sickness of himself or of some member of his family.

(R.S. §40; Pub. L. 97-51, §112(d), Oct. 1, 1981, 95 Stat. 963; Pub. L. 104-186, title II, §203(7), Aug. 20, 1996, 110 Stat. 1726; Pub. L. 109-55, title I, §5, Aug. 2, 2005, 119 Stat. 568.)

#### CODIFICATION

R.S. §40 derived from act Aug. 16, 1856, ch. 123, §6, 11 Stat. 49.

#### AMENDMENTS

2005—Pub. L. 109-55 struck out “Secretary of the Senate and the” before “Chief Administrative Officer”, “, respectively,” before “shall deduct from”, “, respectively” before “, unless such Member”, and “Senate or” after “absent from the”.

1996—Pub. L. 104-186 substituted “the Chief Administrative Officer of the House of Representatives (upon certification by the Clerk of the House of Representatives)” for “Sergeant-at-Arms of the House”.

1981—Pub. L. 97-51 substituted “from the monthly payments (or other periodic payments authorized by law)” for “from the monthly payments”.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-51 effective in the case of compensation payable for months after December 1981, see section 112(e) of Pub. L. 97-51, set out as a note under section 33 of this title.

#### § 40. Deductions for withdrawal

When any Member or Delegate withdraws from his seat and does not return before the adjournment of Congress, he shall, in addition to the sum deducted for each day, forfeit a sum equal to the amount which would have been allowed by law for his mileage in returning home; and such sum shall be deducted from his compensation, unless the withdrawal is with the leave of the Senate or House of Representatives respectively.

(R.S. §41.)

#### CODIFICATION

R.S. §41 derived from Res. July 17, 1862, No. 68, §2, 12 Stat. 628.

#### § 40a. Deductions for delinquent indebtedness

Whenever a Representative, Delegate, Resident Commissioner, or a United States Senator, shall fail to pay any sum or sums due from such person to the House of Representatives or Senate, respectively, the appropriate committee or officer of the House of Representatives or Senate, as the case may be, having jurisdiction of the activity under which such debt arose, shall certify such delinquent sum or sums to the Chief Administrative Officer of the House of Representatives in the case of an indebtedness to the House of Representatives and to the Secretary of the Senate in the case of an indebtedness to the Senate, and such latter officials are authorized and directed, respectively, to deduct from any salary, mileage, or expense money due to any such delinquent such certified amounts