News from Washington

Postal Reform Act passes in Senate, sent to President Biden's desk

On March 8, in a 79-19 vote, the Senate passed the Postal Service Reform Act of 2022 (H.R. 3076). Following prior House passage on Feb. 8, the bill has been sent to President Biden for his signature to become law.

"This is a monumental victory for letter carriers and all Americans who depend on the Postal Service for affordable and high-quality universal service," NALC President Fredric Rolando said. "I want to congratulate and thank all the NALC members who lobbied their members of Congress to win passage in the Senate and the House. Thanks to your support, dedication and action, bipartisan postal reform that was 12 years in the making has finally passed in both chambers."

Key provisions of this bipartisan legislation repeal the mandate to pre-fund retiree health care benefits decades in advance, and codify a minimum of six-day delivery of mail and packages into federal law. This will eliminate the need to renew the six-day requirement every year through the congressional appropriations process. The bill also maximizes the integration of future postal annuitants into Medicare.

The legislation, which was led in the Senate by Homeland Security and Governmental Affairs Committee (HSGAC) Chairman Gary Peters (D-MI) and Ranking Member Rob Portman (R-OH), reflects a broad bipartisan consensus that is supported by the four postal unions, the mailing industry and Postal Service management.

"NALC commends Chairman Peters and Ranking Member Portman for their bipartisan leadership to get this critical bill passed in the Senate," President Rolando said. "We also appreciate every senator who voted 'yes' on this bill."

Visit the Legislative Action Center at nalc.org to thank members of Congress who voted "yes" on H.R. 3076. **PR**

The long road to H.R. 3076, The Postal Reform Act of 2022

NALC members have been working for 12 years to educate Congress on the need for meaningful postal reform, and with the passage of the Postal Reform Act of 2022 (H.R. 3076), that hard work has paid off. In March, the Senate voted to approve the bill after the House passed it in February. To show how we got here, and to explain the importance of the bill, which has been sent to President Biden for his signature, *The Postal Record* is looking back at what led us here. This look will include the origins and the negative impact of the pre-funding mandate, which placed an unfair and unaffordable burden on the U.S. Postal Service—a mandate that the new law eliminates.

The end of an era

Nobody knew it at the time, but 2006 marked the end of perhaps the four most financially successful years in Postal Service history, with $9 billion in total net income over the period. Total mail volume, at 213.1 billion pieces, reached an historic high in 2006. USPS sales topped $72 billion that year. USPS's debt was just $1.2 billion, a fraction of its $15 billion debt limit.

At the time, senators and representatives were debating postal reform legislation in the form of the Postal Accountability and Enhancement Act of 2006 (PAEA). Several pieces were in play in crafting the PAEA.

In 2003, Congress had reformed the funding rules for the Postal Service's Civil Service Retirement System (CSRS) account. It did so after an audit revealed that USPS would massively overfund its CSRS pension benefits—by tens of billions of dollars—if the funding rules were not changed. The resulting legislation, the Postal CSRS Funding Reform Act of 2003, effectively reduced the Postal Service's retirement costs by billions of dollars annually. This created a problem for Congress—because the self-supporting Postal Service is off-budget, reducing its CSRS contributions effectively raised the federal budget deficit, with less money coming into the Treasury. And because the federal deficit was skyrocketing after tax cuts in 2001 and 2002, Congress wanted to limit the "cost" of the CSRS funding reform. So, instead of letting USPS keep all its savings from reduced pension contributions, Congress set up an "escrow account" to hold most of these savings until it could decide what to do with the money.

This reform still benefited the Postal Service, because the measure effectively reduced the agency's payroll costs for CSRS benefits to zero for 10 years. But it denied USPS most of the savings. Compounding the problem was the realization, after the fact, that the Office of Personnel Management (OPM) had shifted tens of billions of dollars in liabilities for military pension benefits to the Postal Service when the 2003 law was implemented—basically making the Postal Service pay for CSRS benefits earned by its employees during their previous service in the armed forces. It sounds crazy, and it was. As funds began to pile up in the escrow account, further postal reform was becoming urgent. Indeed, there was real concern that Congress might use the money for non-postal purposes.

Also relevant was the fact that conservatives dominated Washington, with President George W. Bush in the White House and the Republican Party in control of both houses of Congress. Three years earlier, a presidential commission had been formed to consider the future of the Postal Service. Although the commission ultimately rejected calls for postal privatization, it did call for improving the costly and litigious system of postage rate setting and for placing strict limits on the kinds of services the Postal Service could offer in competition with private companies.

Congress was also considering widespread concern about the likely effect of the internet on postal volumes and finances. Some worried about the viability of the Postal Service in the digital age.

Meanwhile, the leadership of the General Accounting Office (GAO), a research and auditing unit of Congress whose name would be changed in 2004 to the General Accountability Office, was raising concerns about large unfunded liabilities in the federal government's retirement programs. The GAO was especially concerned with the cost of future retiree health benefits because Congress already had addressed the unfunded liabilities for federal pensions when it created the Federal Employees Retirement System (FERS) in 1987.

Although private-sector accounting rules (Financial Accounting Standards Board [FASB] 106, for the accounting nerds) required companies to report the unfunded liability for such benefits, they do not require companies to pre-fund these benefits (though some do so on a voluntary basis, when they can afford it). Nevertheless, the comptroller general of the United States (the head of GAO) called on Congress to require all federal agencies to pre-fund their future retiree health benefits—effectively, to apply pension funding rules to retiree health benefits. For a variety of reasons, this proposal made little sense—and it was rejected by both the White House and Congress in the ordinary budget process in the years before 2006.

Unfortunately, the GAO's idea—this time applied only to the Postal Service—emerged as a potential solution to the problem created by the 2003 CSRS funding reform law and the troublesome escrow account. Congress decided to compel the Postal Service to pre-fund its retiree health benefits with its pension savings and thereby avert an increase in the budget deficit before passing the PAEA. This is what led to the legislated schedule of 10 annual payments ranging from $5.4 billion to $5.8 billion between 2007 and 2016—and to the mandate to continue pre-funding even after the first 10 years with so-called "normal cost" and "amortization" payments.

The Postal Service and its stakeholders were reluctant to accept this solution, but Congress offered three significant inducements. First, it reversed OPM's cost shift of the $27 billion in military pension liabilities.

Opposite page: Letter carriers and concerned citizens held nationwide rallies on March 24, 2013, to call for the protection of six-day delivery. At a rally in Boston, NALC President Fredric Rolando (l) was joined by Rep. Stephen Lynch (D-MA), whose postal reform bill had the support of a bipartisan majority in Congress.

The long road to the Postal Reform Act of 2022 (continued)

Second, it gave USPS the right to raise rates one last time within one year of enactment of the law—that is, to build the cost of pre-funding into the postage rates before a new consumer price index (CPI) price-cap system was implemented. And third, it offered a mechanism to recover tens of billions of dollars to cover postal pensions and retiree health benefits by tasking the Postal Regulatory Commission (PRC) with resolving a dispute between the OPM and the Postal Service over the proper allocation of CSRS pension costs associated with the taxpayer-funded Post Office Department (POD) before 1970.

Fatefully, the PAEA was passed by a lame-duck session of Congress in December of 2006. Although nobody saw it coming at the time, a perfect storm was brewing in the global economy that would have devastating effects on the Postal Service.

The Great Recession hits and the pre-funding crisis begins

Even as Congress was debating the PAEA in December 2006, the housing market in the United States had begun to collapse in what was a harbinger of the Great Recession. Mail volume declined in 2007 as a massive real estate bubble began to burst. The domestic and global financial systems began to implode. With the U.S. economy weakening and mail volume falling, the mailing industry rallied against the Postal Service's petition to raise rates to cover the cost of pre-funding before the CPI cap took effect. The Postal Service, perhaps understandably, agreed to forego its final chance to set rates under the old rules. In retrospect, USPS should have applied for the last rate increase and deferred its implementation. Instead, the strict CPI price cap went into effect right away.

The Postal Service was devastated as the economy suffered the worst recession since the Great Depression of the 1930s. Unemployment soared to more than 10 percent. Millions of Americans lost their homes. Mail volume plummeted by double-digit percentages as the downturn hit the most mail-intensive parts of the economy—advertising, publishing, real estate and financial services. Meanwhile, the crushing cost of the pre-funding mandate took effect, driving up the Postal Service's financial losses. The rest is history.

In the immediate crisis, most people blamed the recession for the Postal Service's financial woes—and Congress reduced the pre-funding payment in 2009 from $5.4 billion to $1.4 billion and then deferred the 2011 payment until 2012. Since 2007, the pre-funding mandate has been responsible for 84 percent of USPS losses. It accounted for 100 percent of the red ink over the 2013-2018 period.

However, many observers blamed the internet for the repeated losses, overlooking the impact of the pre-funding mandate. Indeed, many failed to see that the Postal Service had bounced back dramatically after 2012—as the economy gradually improved and thanks to an e-commerce boom sparked by that very same internet, as well as to rising productivity made possible by the Postal Service's craft employees. In fact, the pre-funding burden disguised the operating profit that USPS was realizing in most years. That's a remarkable achievement for a government entity offering Americans and their businesses the industrial world's most-affordable delivery network while receiving no taxpayer money.

Under attack

This artificial crisis opened the Postal Service and its employees to relentless attacks from USPS management, congressional members and other politicians, along with think tanks and groups looking to privatize whatever they could. Some critics claimed that because USPS had defaulted on most of the annual pre-funding payments, using the mandate to explain the rising red ink was a red herring—but those critics overlooked (or intentionally ignored) the fact that, paid or not, the annual pre-funding figure was required by law to be included in the Postal Service's financial ledger.

Thanks to the actions and solidarity of tens of thousands of activists in our union and in our sister postal unions, and to NALC's extensive efforts to inform the public, the politicians and the press of the facts, we have been able to fend off most of those attacks.

In 2010, then-Postmaster General Jack Potter laid out a 10-year plan that foresaw losses totaling $238 billion over the next decade. To shore up USPS, the plan called for the elimination of Saturday delivery. USPS claimed that eliminating Saturday collection and delivery services would save $3 billion per year. The PRC disputed the potential savings, concluding that $1.9 billion was a more realistic figure. However, neither study considered how reduced service would diminish the value of mail; how eliminating Saturday delivery would reduce mail volume and hence revenue, in part because USPS would lose some of its competitive advantage vis-à-vis private delivery services; and how additional cuts might follow, sending USPS into a death spiral.

One major stumbling block for the Postal Service's plan—it didn't have the authority to curtail a day of delivery on its own; only Congress has that authority. Every year for nearly three decades, Congress had adopted a requirement to maintain USPS delivery frequency "at 1983 levels"—the language used to maintain six-day delivery—in a small appropriations bill that makes reimbursements to USPS for free mail for the blind and postage for overseas voting contingent on continuation of six-day delivery. That language had to be renewed annually by Congress through the appropriation process.

While PMG Potter's plan was never implemented, in early 2013 (also during the administration of President Barack Obama, whose annual budget proposals supported postal management's call to go to five-day-a-week delivery), then-PMG Patrick Donahoe decided to test the law by declaring that USPS was unilaterally eliminating Saturday delivery by not accepting the small appropriation it gets to reimburse for free services to the blind and overseas voters. He said that if Congress questioned whether he had the authority to do so, it should give him that authority by removing the requirement in the upcoming appropriations renewal. It was a brazen move and all eyes focused on how Congress would react.

Key members of Congress quickly acted to thwart the PMG, asking GAO to investigate the matter of his legal authority to act unilaterally. Donahoe should have known that he stood little chance of receiving authorization from Congress, given how much constituents of lawmakers from both parties relied on six-day-a-week delivery, and given that for several years, NALC activists had worked to educate members of Congress on the need to retain Saturday delivery. Long before Donahoe's announcement, a bipartisan majority of the House had already co-sponsored a resolution calling on USPS to maintain Saturday delivery.

Ultimately, Congress maintained the six-day requirement in the annual appropriations process, and the GAO concluded that the Postal Service lacked the legal authority to act unilaterally—forcing Donahoe to back down from his threat. It wasn't the end of calls for the end of Saturday delivery, however, with Rep. Darrell Issa (R-CA), chairman of the Committee on Oversight and Government Reform (OGR)—the Postal Service's oversight committee in the House—for years making the idea central to his own calls for postal "reform," while also seeking to eliminate door delivery.

In 2011-2012, Issa teamed with Donahoe to advance a bill to facilitate these service cuts as well as to radically downsize the Postal Service (H.R. 2309) via a financial control board. At the same time, Issa worked to block the Obama administration from implementing the PRC's recommendations on the proper allocation of CSRS pension costs for pre-1970 service in the old POD—as called for in the PAEA. Those recommendations, contained in an independent expert analysis conducted by the Segal Company, would have returned $50-$55 billion to the USPS's pension account in the Civil Service Retirement System (CSRS)—enough to create a surplus that would, by law, be transferred in the Postal Retiree Health Benefits Fund and relieve the Postal Service's financial crisis.

Fighting back

NALC fought back by focusing on the real cause of the Postal Service's financial distress—the pre-funding mandate. Working with Rep. Stephen Lynch (D-MA), the union mobilized a campaign to pass a bill mandating implementation of the Segal/PRC report (H.R. 1351). Thanks to this campaign, a bipartisan majority of the House co-sponsored the legislation. Unfortunately, Chairman Issa, whose own bill had just one other co-sponsor, prevented a vote on the popular Lynch bill in the oversight committee.

NALC also resisted Donahoe's plans in the collective-bargaining process. The day before negotiations began for what became the 2011-2016 National Agreement, the postmaster general sent Congress a white paper calling for the end of USPS participation in the Federal Employees Health Benefit Program (FEHBP). He wanted the Postal Service to adopt its own health plan that could cut costs by requiring all retirees covered by the plan to enroll in Medicare. NALC rallied the Congress to oppose this proposal and fought to include a provision in the new contract requiring the Postal Service to work with the union to consider reforms within the FEHB program. This provision, contained in a memorandum

Rico Jackson of South Jersey Br. 908 was accidentally attributed to the Camden Mgd. Br. 540's list of NALC members who contributed to the Letter Carrier Political Fund in 2021 that ran in the February edition of *The Postal Record*.

The long road to the Postal Reform Act of 2022 (continued)

of understanding in the Das arbitration award that created a joint health care task force, led the parties to develop a consensus approach to Medicare integration that was eventually adopted in H.R. 3076. That consensus approach included waiving the late-enrollment penalties for current annuitants over age 65 who wish to enroll in Medicare Part B and exempting future annuitants who don't need Medicare because of other supplementary coverage (through the VA, for example) or who can't use Medicare where they live (e.g., overseas).

Meanwhile, then-Speaker of the House Rep. Paul Ryan (R-WI) put forward budget proposals to effectively slash letter carrier pay through higher pension contributions. Two of Ryan's budget bills, ostensibly designed to reduce the deficit, initially included elimination of Saturday delivery. Though Saturday delivery ultimately was saved, higher pension contributions from new career letter carriers were included in the bills that were signed into law.

In 2013, new letter carriers were required to contribute 3.1 percent (up from 0.8 percent) of their basic pay for FERS pension benefits. And for carriers hired in 2014 and beyond, the requirement rose to 4.4 percent of their basic pay.

Letter carriers and other postal employees (above and above r) told the White House that the Postal Service should not be privatized in nationwide informational picketing on Oct. 8, 2018.

The legislative fight continued in 2014 when the 21st Century Postal Service Act (S. 1789) passed in the Senate, adopting major parts of the Donahoe downsizing plan, including the elimination of Saturday delivery. NALC led the successful opposition to the legislation in the House by highlighting the impact of the pre-funding burden and urging Congress to reject Donahoe's misguided downsizing plans.

A turn toward consensus

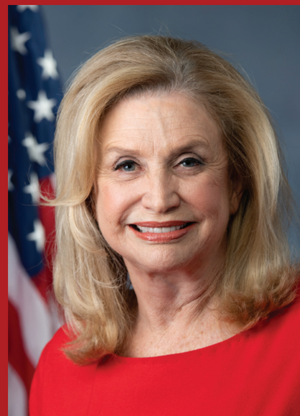
By 2015, when Donahoe retired, it was clear that postal reform would not advance unless all the major stakeholders worked together to reach a consensus that would garner bipartisan support in Congress. Although the new postmaster general, Megan Brennan, still lacked a growth plan for the Postal Service, she agreed to drop her predecessor's attempt to eliminate six-day and door delivery, and to instead work with the unions and the mailing industry on a consensus reform bill. The effort met with early success in the House, where new OGR Chairman Rep. Jason Chaffetz (R-UT) and Rep. Elijah Cummings (D-MD) worked together to craft legislation. However, their efforts were blocked in the Senate by Sen. Ron Johnson (R-WI), who was chairman of the Postal Service's Senate oversight committee, the Homeland Security and Governmental Affairs Committee (HSGAC).

One of the biggest threats to the Postal Service and to the prospects for postal reform came with the election of President Donald Trump. As his term unfolded, Trump turned increasingly hostile to the Postal Service. In 2018, his administration called for the privatization of USPS. A postal task force created by the administration proposed repealing the collective-bargaining rights of postal workers—eliminating NALC's right to directly negotiate pay and benefits that was won in 1970 and thereby exposing letter carriers to the political whims of Congress with the return of "collective begging." The task force further called for gutting FERS, contracting out postal worker jobs and enacting massive service cuts, while massively increasing postage rates for packages.

The task force claimed that these proposals were necessary to fix postal finances. However, the report ignored what has been obvious to anyone paying close attention to postal issues—the destructive role of the requirement to pre-fund retiree health care. Yet again, partisans in Washington were using the funding crisis to further their ideological goals.

And, yet again, NALC activists stepped up when called upon and convinced a bi-

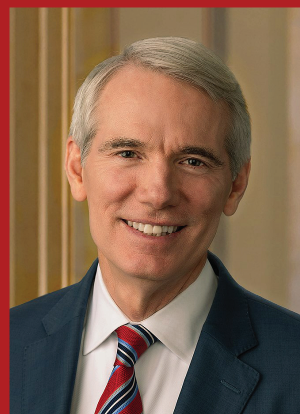
The members of Congress who led The Postal Reform Act of 2022 through both chambers of Congress



Rep. Carolyn Maloney (D-NY)

Rep. James Comer (R-KY)

Sen. Gary Peters (D-MI)



Sen. Rob Portman (R-OH)

partisan majority in the House to co-sponsor a resolution opposing privatization. By the time the task force released its report, the proposals were DOA (dead on arrival) in Congress. The work of these activists halted the administration in its tracks and forced it to abandon its postal plans.

In the final two years of the Trump administration, with limited prospects for broader postal reform and with Postmaster General Brennan once again raising the specter of returning to a downsizing strategy and the complete inability of Congress to advance comprehensive reform, it was clear to NALC that we should narrow our focus on a straightforward repeal of the PAEA's pre-funding mandate. In April 2019, NALC enlisted House Transportation and Infrastructure (T&I) Chairman Peter DeFazio (D-OR), Reps. Tom Reed (R-NY), Xochitl Torres Small (D-NM) and Brian Fitzpatrick (R-PA) to introduce the USPS Fairness Act (H.R. 2382) calling for such a repeal. Companion legislation in the Senate was led by Sens. Steve Daines (R-MT) and Brian Schatz (D-HI). Thanks to the relentless focus of NALC's activists and staff, the House bill gained broad bipartisan support quickly. NALC was able to use House rules to force a floor vote and in February 2020, the USPS Fairness Act passed in the House by a vote of 309-106. Though it stalled in the Senate, mostly due to shifting priorities as COVID-19 took all of Congress's attention, and repealing the pre-funding mandate became the central focus of postal reform efforts to committee leadership in the 117th Congress. The main obstacle in the Senate was HSGAC Chairman Johnson, who would not support any postal reform legislation until the Postal Service's produced a long-term business plan that could restore the agency to fiscal health.

Throughout the summer of 2020, extensive conversations between NALC and newly appointed Postmaster General Louis DeJoy centered around the need to jointly rally behind an agenda that included six-day delivery, repeal of the pre-funding mandate, prospective maximization of Medicare, and implementation of the PRC/Segal report regarding the proper allocation of CSRS liabilities. Securing six-day, repealing pre-funding, and increasing Medicare participation all became central provisions of H.R. 3076. Additionally, the PMG and the USPS Board of Governors developed a comprehensive strategic business plan ("Delivering for America") that included the key provisions of H.R. 3076 and the re-allocation of CSRS liabilities. Although NALC could not endorse it in its entirety, the plan, for the first time, clearly presented a strategy for USPS growth, not just a plan to manage the agency's decline.

Victory in sight

Finally, in the current Congress, with the development of a fiscally responsible USPS plan for growth and the overwhelming public support for the essential role the USPS plays in our country (revealed before, during and after the COVID-19 pandemic), all the stars aligned for progress. The bipartisan leadership of the House Committee on Oversight and Reform, Chairwoman Carolyn Maloney (D-NY) and Ranking Member James Comer (R-KY), agreed to work with their counterparts on the Senate Homeland Security and Governmental Affairs Committee, Chairman Gary Peters (D-MI) and Ranking Member Rob Portman (R-OH), to fashion a narrow, consensus postal reform bill.

With this bipartisan agreement in Congress, the Postal Reform Act (H.R. 3076) emerged as a bill that would eliminate the pre-funding mandate, secure six-day mail and package delivery, and help put the Postal Service in a position to provide the American people with the service they deserve. While not a solution for all of the Postal Service's challenges, it does finally allow the USPS to step out of the shadow created by the artificial financial crisis manufactured by the PAEA's pre-funding mandate.

"We have worked long and hard on postal reform," NALC President Fredric Rolando said. "We have sought to foster a broad coalition of stakeholders as well as office holders, Democrats and Republicans alike, to strengthen the Postal Service and its employees, and to serve the common good. There is more that we can and will accomplish, but passage of this legislation is real and important progress." **PR**