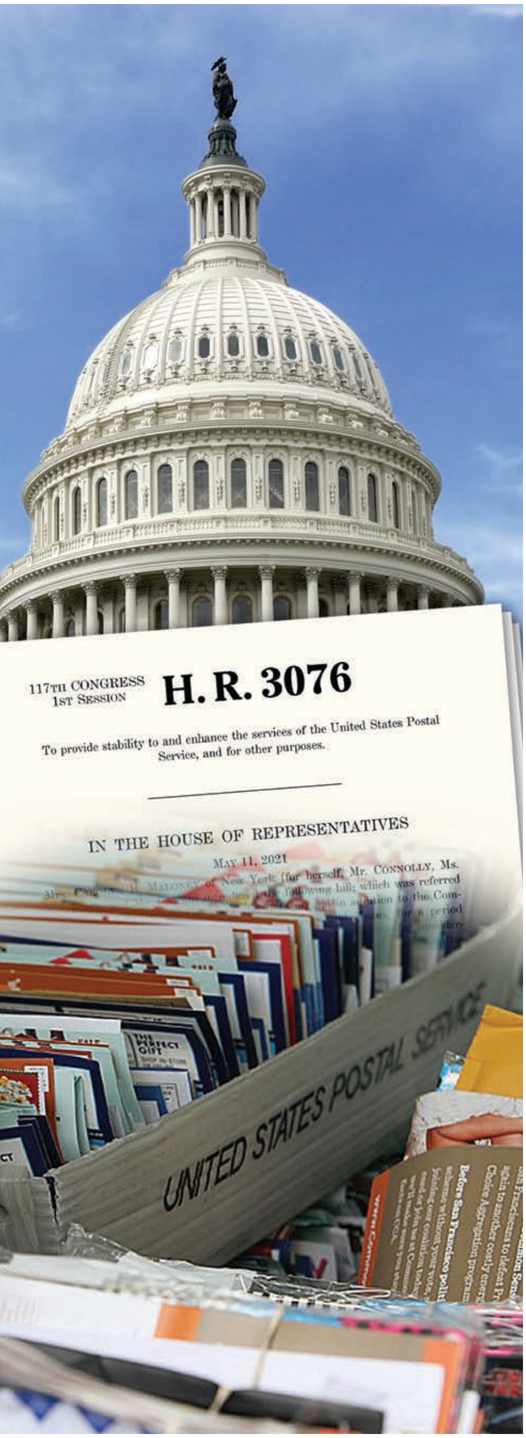
News

Congress takes up postal reform



Following months of negotia- tions during a period of intense public scrutiny of the U.S. Postal Service, House lawmakers have introduced the Postal Service Reform Act of 2021 (H.R. 3076). The bipartisan legislation encompasses an agreement made between House Committee on Oversight and Reform (COR) Chairwoman Carolyn Maloney (D-NY) and Ranking Member James Comer (R-KY), who focused on essential provisions of consensus, setting aside matters that could undermine the bill's prospects.

As this magazine was going to print, H.R. 3076 passed out of committee on a voice vote with no amendments. The legislation addresses two of NALC's top priorities:

- The repeal of the mandate that the Postal Service pre-fund decades' worth of health benefits for its future retirees, which was enacted through the Postal Accountability and Enhancement Act (PAEA) of 2006, embracing the bipartisan USPS Fairness Act (H.R. 695 and S. 145).
- A reform of the Federal Employees Health Benefits (FEHB) Program to maximize participation in Medicare once active postal employees (as of Jan. 1, 2023) retire and reach age 65. Annuitants as of Jan. 1, 2023, will be given the choice of whether to remain in the existing FEHB system or participate in the postal version of the program that requires enrollment in Medicare Parts A and B, and retirees over the age of 65 who have chosen not to enroll in Medicare Part B will be given a one-time opportunity to do so with no late-enrollment penalty. Annuitants who elect to remain in the existing FEHB will not be required to enroll in Medicare. NALC also successfully lobbied to ensure exceptions to the requirement to enroll in Medicare for those covered under other insurance arrangements (such as the VA) and for those who live in a place where there are not Medicare-participating providers.

Because they have jurisdiction over the Medicare program, the bill will be referred to the House Committee on Ways and Means as well as the House Committee on Energy and Commerce for possible amendments before it can be debated by the entire House of Representatives.

"NALC has worked for years to educate members of Congress on the importance of having postal reform legislation that repeals the pre-funding mandate and coordinates the proper integration into Medicare for our members," NALC President Fredric Rolando said. "We have significant work to do, but NALC's influence and advocacy on these issues is the reason they were included in this vital legislation. This influence is made possible only by the hard work of NALC's network of letter carrier activists."

H.R. 3076 also includes language that requires the Postal Service to maintain an "integrated" network of both mail and packages six days a week. If this bill becomes law, USPS will be required to maintain mail delivery six days a week. Since 1983, the mandate to deliver mail six days a week has required yearly renewal in the appropriations process. This bill would eliminate the need for the annual fight to maintain this mandate.

In addition, the bill requires the Postal Service to provide semiannual reports to Congress on the implementation of its 10-year strategic plan; provides for a public dashboard using nationwide delivery metrics to track delivery performance; directs the Postal Service to use the most efficient means to transport mail, likely moving from air to ground; mandates a Postal Regulatory Commission (PRC) review of competitive and non-competitive products and a study of nationwide processing efficiency of flats (magazines and catalogs); provides the PRC with independent budget authority through the Postal Fund, preventing it from being directly affected by sequestration/shutdowns; provides a special postage discount for newspapers; and consolidates the Postal Service's and the PRC's Inspectors General into a single office.

Recognizing that members of Congress had priorities that were not going to be addressed in the underlying bill, Chairwoman Maloney introduced a secondary measure, the Postal Service Improvement Act (H.R. 3077), which also was considered and advanced out of committee. This second bill includes a variety of provisions, including ballot tracking measures for votes cast by mail; paid parental leave for postal employees; Merit Systems Protection Board rights for managers and supervisors; an $8 billion appropriation for the Postal Service to make 75 percent of its vehicle fleet electric and to build charging stations at postal facilities; a requirement that the Postal Service maintain January 2021 service standards on first-class mail; a pilot program to study using postal employees to conduct the Census; and a measure to allow members of Congress to inspect postal facilities at their discretion. However, many of these provisions may lack the broad bipartisan support necessary to become law.

While H.R. 3076 has bipartisan support, that by itself will not be enough to see it through to the president's desk. "For letter carriers, the hard work really begins now," NALC President Rolando said. "Bipartisanship alone is not enough anymore. In today's climate, resolution of issues and good government policy are clouded by political tension and narrow margins in both the House and Senate, as well as the politicization of the Postal Service in both Congress and the public. We must overcome all of these obstacles to see postal reform legislation enacted into law."

The difficulties are compounded by the slim majority in the Senate, with 50 Republicans, 50 Democrats/Independents who caucus with Democrats, and Vice President Kamala Harris holding the tiebreaking vote as president of the Senate. As this publication was going to print, Senate Homeland Security and Government Affairs Chairman Gary Peters (D-MI) and Ranking Member Rob Portman (R-OH) were beginning discussions on a Senate companion bill.

As the legislation progresses in the House and Senate, NALC will need the full engagement of letter carriers to help educate members of Congress on how this legislation will protect employees and our essential network. Keep an eye out for more information in the Government Affairs section of nalc.org and on the NALC Member App. Members are encouraged to install the app on their smartphones so that NALC can communicate with you when the legislation is released and when it moves in the halls of Congress.

Why is postal reform needed?

The mandate that USPS pre-fund decades' worth of health benefits for its future retirees went into effect in 2007. This is an onerous burden faced by no other public agency or private company in the country. It had the impact of creating an artificial financial crisis that has harmed the Postal Service ever since.

As reported in the Postal Service's annual 10-K financial statements, the mandate has cost an average of $5.2 billion annually since 2007 and is responsible for 84 percent of USPS losses over that period, while accounting for 100 percent of losses from 2013 to 2018—and actually disguising what otherwise would have been net profits. Absent this unique burden, USPS would have recorded surpluses of nearly $4.0 billion in that latter period.

The pre-funding mandate has prevented the Postal Service from properly investing in its networks. Even worse, the resulting red ink has been used both to threaten core services that Americans rely on—such as door-to-door service, six-day delivery and convenient post office hours—and to advance proposals to privatize the Postal Service and attack the jobs and rights of postal employees.

But where did the pre-funding mandate come from?

Nobody knew it at the time, but 2006 marked the end of perhaps the four most successful years in Postal Service history—with positive annual net incomes between 2003 and 2006 totaling more than $9 billion. USPS sales topped $72 billion in 2006. USPS's debt was just $1.2 billion, a fraction of its $15 billion debt limit. But the world was about to change dramatically, with the arrival of the worst recession in

Postal reform (continued)

some 80 years. No one could possibly anticipate what was about to happen; unfortunately, this included the members of Congress who were then debating postal reform legislation in the form of the PAEA.

The political forces driving action on postal legislation varied. Some were ideological. Some were technological. And some were the practical result of prior policy decisions.

On the ideological front, 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.

On the technological front, there was widespread concern about the likely impact of the internet on postal volumes and finances. Some worried about the viability of the Postal Service in the digital age.

But perhaps the most important factors had to do with the prior policy decisions that spurred Congress to take up postal reform.

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 saw Congress set up an escrow account to hold most of these excess pension contributions until it could decide what to do with the money.

Meanwhile, the Bush administration's 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 prior service in the armed forces. 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. Moreover, the leadership of the General Accountability Office (GAO) had become concerned with the cost of future retiree health benefits. Congress already had addressed the unfunded liabilities for federal pensions when it created FERS in 1987. Although private-sector accounting rules do not require companies to pre-fund these benefits, 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 various 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.

"We've been working on the pre-funding problem for 15 years now. Repealing the pre-funding mandate and prospective Medicare integration have proven to be the most viable solution for the various stakeholders interested in finding a real solution that allows the Postal Service to innovate and grow in the years ahead."

Unfortunately, GAO's idea—this time applied only to the Postal Service—emerged as a perceived 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 excess pension contributions and thereby avert an increase in the budget deficit. 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 two significant inducements. First, it reversed OPM's cost shift of the $27 billion in military pension liabilities. 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 price-cap system was implemented. (Unfortunately, the USPS declined to use this one-time opportunity in the face of mailer opposition.) Fatefully, PAEA was passed by a lame-duck session of Congress in December of 2006.

Though 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. Just a few months after the pre-funding mandate was enacted, the U.S. economy would enter the worst recession since the Great Depression. Unemployment soared to more than 10 percent. Millions of Americans lost their homes. Mail volume plummeted 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.

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. But once the U.S. economy began to slowly recover, observers started to blame 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, thanks to an e-commerce boom made possible by that very same internet, and to rising productivity made possible by the Postal Service's craft employees.

That allowed some, including those seeking privatization or intent on attacking a significant share of the federal work force, to promote a false narrative—that USPS's financial problems indicated that it was a relic overtaken by electronic communications. In fact, flawed public policy was at issue here.

The bottom line: The Postal Service faces a manufactured financial crisis as a result of the 2006 congressional mandate to pre-fund future retiree health benefits—as would any company or agency forced to make such payments decades in advance.

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Solutions to the pre-funding crisis

Over the years, NALC and other stakeholders have sought legislative solutions to the pre-funding crisis. From the beginning, NALC proposed repealing the pre-funding burden as the easiest solution to ending the Postal Service's financial crisis. However, following House passage of the USPS Fairness Act in February 2020, COVID-19 became the center of legislative focus, which prevented any action on the bill in the Senate.

Another solution to pay for much of the liability was to get the Treasury Department to refund the Postal Service's overcharged CSRS pension account. These overpayments date from when the Post Office Department became the U.S. Postal Service.

Treasury is responsible for pension benefits for the years any carriers worked for the Post Office Department, which existed until 1970, with the Postal Service picking up the tab for their years working after the Postal Reorganization Act of 1970 created USPS. Unfortunately, OPM, which administers the CSRS, miscalculated the cost of pre-1970 pension benefits, not accounting for increases to letter carriers' pre-1971 pensions due to pay increases after postal reorganization. Two independent studies found the CSRS postal account had been overcharged to the tune of $50 billion to $75 billion.

Even though the pension surplus fix appeared in many pieces of legislation and was supported by a bipartisan majority of lawmakers, certain congressional leaders refused to allow the plan to move forward in committee or to act on the pension overpayments, as they would have cost Treasury tens of billions of dollars in the budget.

A third idea, using Medicare to reduce the liability for retiree health, has slowly gained traction. For NALC, it made the most sense in the context of a bill that would protect service quality and city carrier jobs.

"We've been working on the pre-funding problem for 15 years now," President Rolando said. "Repealing the pre-funding mandate and prospective Medicare integration have proven to be the most viable solution for the various stakeholders interested in finding a real solution that allows the Postal Service to innovate and grow in the years ahead. Taking full advantage of the Medicare taxes we have paid over the years to reduce the cost of health insurance for active and retired postal employees alike will save the Postal Service tens of billions of dollars over time, and repealing the pre-funding mandate will eliminate the main driver of the agency's annual losses. I know that NALC members will continue to make all of our voices heard with lawmakers to finally address this long-standing problem." **PR**