Calendar No. 424

111TH CONGRESS
2d Session

SENATE

REPORT
111–203

POSTAL SERVICE RETIREE HEALTH BENEFITS FUNDING REFORM ACT OF 2009

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1507

together with

ADDITIONAL VIEWS

TO AMEND CHAPTER 89 OF TITLE 5, UNITED STATES CODE, TO REFORM POSTAL SERVICE RETIREE HEALTH BENEFITS FUNDING, AND FOR OTHER PURPOSES

JUNE 9, 2010.—Ordered to be printed

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POSTAL SERVICE RETIREE HEALTH BENEFITS FUNDING REFORM ACT OF 2009

JUNE 9, 2010.—Ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 1507]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1507) to amend chapter 89 of title 5, United States Code, to reform Postal Service retiree health benefits funding, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

I. PURPOSE AND SUMMARY

Over the last several years, the United States Postal Service (Postal Service) has faced a significant financial crisis due to its declining mail volume. S. 1507 seeks to help alleviate that crisis by reducing the amount of money the Postal Service is required to set aside now for retiree health benefits it will not have to actually confer until a number of years in the future.

In fiscal year 2008, the Postal Service handled 9.5 billion fewer pieces of mail—4.5 percent less by total volume—than it did the fiscal year before, leading to a net loss of $2.8 billion. In fiscal year 2009, the Postal Service's mail volume decreased by an additional 25.6 billion pieces, and it posted an annual net loss of approximately $3.8 billion.[1] The Postal Service would have lost even more in fiscal year 2009—$7.8 billion—had Congress not given the Postal Service permission to reduce its payments to the Postal Service Retiree Health Benefits Fund (the Fund) by $4 billion for the fiscal year.[2]

The Fund was established in 2006 by the Postal Accountability and Enhancement Act (P.L. 109–435) to hold money Congress required the Postal Service to put aside to pay for the health benefits of future Postal Service retirees. Required annual payments into the Fund range from $5.4 billion to $5.8 billion from fiscal years 2006 through 2016.[3] The purpose of S. 1507 is to adjust the Postal Service's payment schedule into the Fund to provide it some financial relief in the next several years.

II. BACKGROUND AND NEED FOR THE LEGISLATION

As a result of a Government Accountability Office (GAO) inquiry in 2001,[4] the Office of Personnel Management (OPM) reviewed the Postal Service's liability and payments for the pensions of Postal Service employees covered by the Civil Service Retirement System (CSRS), the retirement system for federal employees who started work prior to 1984. OPM discovered that if the Postal Service continued making payments according to CSRS's statutorily mandated schedule, the Postal Service would end up over-funding its CSRS obligation by between $71 billion and $103 billion.

In response to OPM's finding, Congress passed and President Bush signed P.L. 108–18 in April 2003. That bill eliminated the Postal Service's annual payment into the CSRS trust fund and required the Postal Service to pay off what was believed to be its remaining $5 billion CSRS pension liability over a period of 40 years.

P.L. 108–18, however, did not give the Postal Service unfettered access to the savings generated by this change. Rather, P.L. 108–18 directed the Postal Service to use the difference between the old statutory CSRS payments and the new payments made under the 40-year payment schedule in fiscal years 2003 and 2004 to pay down its debt and maintain rate stability. It then required the Postal Service to deposit savings generated after fiscal year 2004 into an escrow account. The 2003 law left for future legislation to decide the ultimate use of the funds the escrow account contained.

P.L. 108–18 also required the Postal Service to report to Congress on how the Postal Service proposed to use the savings in 2006 and beyond. The law required the Postal Service, in preparing its proposal, to consider whether, and to what extent, future savings should be used to address debt repayment; prefunding of post-retirement health care benefits for current and former postal employees; productivity and cost-saving capital investments; delaying or moderating increases in postal rates; and any other matter.

In September 2003, the Postal Service provided two options to Congress for how the escrow funds should be used. Both options contemplated that the Postal Service would prefund health benefits

[1] The Challenge to Deliver: Creating the 21st Century Postal Service: *U.S. Postal Service Annual Report (Fiscal Year 2009).*
[2] *Id.*
[3] P.L. 109–435.
[4] United States Postal Service: Information on Retirement Plans, GAO–02–170 (Washington, DC: December 2001).

for future retirees.[5] At the time Congress was considering these proposals, the amount of the Postal Service's unfunded obligations for the health benefits of its future retirees was approximately $50 billion.

The following Congress revisited the issue in the Postal Accountability and Enhancement Act (P.L. 109–435). In response to the Postal Service's recommendations, the 2006 law established the Fund, which will be used to pay the health benefits of future postal retirees. Following an initial 10-year period of annual payments ranging from $5.4 billion to $5.8 billion to reduce the portion of benefits owed to future retirees that is currently unfunded, any remaining liability in the fund will be amortized over a 40-year period. The payments, deposited in the Fund, are in addition to the payments the Postal Service makes throughout the year to OPM to cover its share of current retirees' health care premiums, which totaled about $2 billion in fiscal year 2009.

The Postal Service indicated to Congress in 2006 that it would be able to make the annual payments required under the 2006 law and that passage of P.L 109–435 would put the Postal Service on "firm financial footing for the future."[6] The Postal Service's Inspector General, however, recently called the payment schedule included in P.L. 109–435 "unusual" in that the annual payments over the first ten years are not based on an amortization of the Postal Service's unfunded future retiree health liabilities or the amount in the Fund.[7]

Facing potentially significant financial losses for fiscal year 2009 and wishing to access the funds it has been required to set aside in the Fund, the Postal Service proposed legislation that would have permitted payments to OPM for health benefits due to its current retirees to come from the Fund rather than as a direct payment from the Postal Service. Due to significant mail volume decline, which the Postal Service attributes to the length and severity of the recession and the continued electronic diversion of what in the past has gone through the mail, the level of relief that would be provided by the enactment of this proposal may no longer be enough to get the Postal Service through the next few fiscal years.

At a hearing last year before the Committee's Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, Postmaster General John Potter highlighted the severity of the Postal Service's financial problems.[8] He pointed out that the economic slowdown that the country as a whole has faced has accelerated the diversion of hard-copy mail to other forms of communication.[9] He projected a year-end loss of "at least" $7 billion. He also said that if the Postal Service

[5] Postal Service Proposal: Use of Savings For Fiscal years After 2005, P.L. 108–18. September 30, 2003. See also Postal Pension Funding Reform: Issues Related to the Postal Service's Proposed Use of Pension Savings, GAO–04–238, pages 3–4 (Washington, DC: November 2003); CRS Report for Congress: Pension Issues Cloud Postal Reform Debate, Order Code RL32346, page 6 (Washington, DC: January 2006).

[6] New Postal Law: A Message from the Postmaster General, PCC Insider, December 20, 2006.

[7] U.S. Postal Service, Office of Inspector General, Financial Management Advisory Report, ESS–MA–09–001, p. 17, July 22, 2009.

[8] Statement of John E. Potter, Postmaster General, U.S. Postal Service, (hereinafter "Potter Statement"), for the Hearing on "The U.S. Postal Service in Crisis" Senate Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security: August 6, 2009 (hereinafter "August 6, 2009 Hearing").

[9] *See* Potter Statement at August 6, 2009 Hearing.

were to make the full $5.4 billion retiree health pre-funding payment on September 30, 2009, as scheduled, the Postal Service would likely run out of cash. As a result, he indicated that the Postal Service would not be able to make that payment.[10] On June 18, Postmaster General John Potter and Postal Service Board of Governors Chairman Carolyn Gallagher sent a letter to Congress stating that they had informed the Office of Management and Budget, the Treasury Department, the Congressional leadership and members of this Committee and the House Oversight and Government Reform Committee that the Postal Service did not plan to make the full payment.

The fiscal year 2010 Legislative Branch Appropriations Act, signed into law by President Obama on September 30, 2009, contained language reducing the Postal Service's fiscal year 2009 retiree health pre-funding payment from $5.4 billion to $1.4 billion, an amount the Postal Service indicated it could afford to pay.

S. 1507 is intended to address these ongoing problems on a longer term basis. It would reduce the size of the Postal Service's retiree health pre-funding payments in fiscal years 2010, 2011 and 2012. The legislation would also require OPM to determine any additional payment the Postal Service must make into the Fund based on the Postal Service's expected obligations while increasing the Postal Service's total payments in fiscal years 2015, 2016, 2017, 2018, and 2019. These provisions are intended to insure that the Postal Service's annual payments keep up with changes in its retiree health obligations. It would also require that premium payments for current postal retirees be paid out of the Fund. Finally, the bill would increase the Postal Service's annual borrowing limit for fiscal years 2009 and 2010 from $3 billion to $5 billion. The financial troubles facing the Postal Service are so severe, however, that postal management will need to make additional changes at the Postal Service beyond those included in the bill.

III. LEGISLATIVE HISTORY

S. 1507 was introduced by Senator Carper on July 23, 2009, and referred to the Committee. It was then reported to the full Senate favorably by a roll call vote of 11–1 on July 30, 2009. Chairman Lieberman, Senators Levin, Carper, Pryor, Landrieu, McCaskill, Tester, Burris, and Bennet, Ranking Minority Member Collins, and Senator Graham voted "yea." Senator Akaka voted "nay." Four amendments were adopted during the Committee's consideration of the bill:

- A Collins amendment requiring that a report authorized in section 710(a) of the P.L. 109–435 on the future business model of the Postal Service currently due in 2011 be completed by GAO by March 2010 was adopted by voice vote. Senators Lieberman, Akaka, Carper, Pryor, Landrieu, McCaskill, Burris, Collins, Coburn and Voinovich were present.
- A Collins amendment modifying the emergency borrowing provisions in the bill so that any additional borrowing the Postal Service does in fiscal years 2009 and 2010 is kept under its $15 billion debt ceiling was approved by voice vote. Senators Lieberman,

[10] *See Id.*

Akaka, Carper, Pryor, Landrieu, McCaskill, Burris, Collins, Coburn and Voinovich were present.

- A Coburn amendment requiring the members of arbitration boards impaneled to decide disputes between the Postal Service and its bargaining-unit employees to consider the financial condition of the Postal Service in making decisions about collective bargaining agreements was approved by voice vote. Senators Lieberman, Akaka, Carper, McCaskill, Burris, Collins, Coburn and Voinovich were present. Senators Akaka, McCaskill and Burris asked that their votes be recorded as "nay."
- A Coburn amendment prohibiting the Postal Service from awarding bonuses to Postal Service executives for work performed in years in which the Postal Service had a year-end net loss was approved by voice vote. Senators Lieberman, Akaka, Carper, McCaskill, Burris, Collins, and Coburn were present.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of S. 1507 as the "Postal Service Retiree Health Benefits Funding Act of 2009."

Section 2. Government contributions

Section 2 removes the requirement in current law that the Postal Service directly pay the employer share of current postal retirees' health care premiums. Under the language in this section, these obligations would be paid out of the Fund.

Section 3. Postal Service Retiree Health Benefits Fund

Section 3 strikes the existing schedule of payments the Postal Service is required to make into the Fund and replaces it with a new schedule. The new schedule would require ten years of payments into the Fund. Those payments would feature two components. The bill specifies the amount of the first component, which would total $1.7 billion in fiscal year 2009 and grow to $5.3 billion in fiscal year 2019. The amount of the second component would be based on a valuation made by the Office of Personnel Management each year of the Postal Service's unfunded retiree health obligation. Whatever remains of the obligation in fiscal year 2020 would be amortized over a period of 40 years.

Section 4. Temporary increase to postal borrowing limitations

Section 4(a) would increase the Postal Service's annual borrowing limit for fiscal year 2009 and fiscal year 2010 from $3 billion to $5 billion.

Section 4(b) would require that any additional borrowing above $3 billion that the Postal Service makes in fiscal year 2009 and fiscal year 2010 remain within the Postal Service's overall $15 billion borrowing limit and be paid back by the end of fiscal year 2019.

Section 5. Consideration of Postal Service financial condition

Section 5 would require the members of arbitration boards impaneled to decide disputes between the Postal Service and its bargaining-unit employees to consider the financial condition of the

Postal Service in making decisions about collective bargaining agreements.

Section 6. Assessment of future business model of the Postal Service

Section 6 would require that a report authorized in section 710(a) of the P.L. 109–435 on the future business model of the Postal Service be completed by GAO by March 2010. It is currently due in 2011.

Section 7. Prohibition on bonuses

Section 7 would prohibit the Postal Service from awarding bonuses to Postal Service executives for work performed in years in which the Postal Service had a year-end net loss.

Section 8. Effective dates and application

Section 8 states that any payments the Postal Service has paid during fiscal year 2009 by the date of enactment of S. 1507 that it would not be required to pay under the amendments made in the bill shall be credited against the payments due on September 30, 2009.

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 S. 1507. The Congressional Budget Office states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would impose no costs on state, local, or tribal governments, or private entities. The enactment of this legislation will not have significant regulatory impact.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

SEPTEMBER 14, 2009.

Hon. JOSEPH I. LIEBERMAN,
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. 1507, the Postal Service Retiree Health Benefits Funding Reform Act of 2009.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1507—Postal Service Retiree Health Benefits Funding Reform Act of 2009

Summary: S. 1507 would change the payments that the United States Postal Service (USPS) makes for retirees' health insurance premiums. In total, the bill would decrease those payments over the 2009–2014 period and increase the payments in subsequent years. In particular, the bill would:

- Authorize the Postal Service to make payments for retirees' health insurance premiums from the Postal Service Retiree Health Benefits Fund (PSRHBF) for fiscal years 2009 through 2016;
- Change the amounts that the Postal Service is required to pay into the PSRHBF over the 2009–2019 period; and
- Direct the Postal Service, over the 2009–2019 period, to make estimated annual payments to the PSRHBF to prefund the health care costs of future retirees.

In addition, S. 1507 would raise the borrowing limitation of the Postal Service for fiscal years 2009 and 2010 and make other changes to the laws that govern the agency's operations.

CBO estimates that enacting the bill would result in on-budget costs totaling about $4.8 billion and off-budget savings of $2.1 billion over the 2009–2019 period. (USPS cash flows are recorded in the Postal Service Fund and are classified as off-budget, while the PSRHBF is an on-budget account.)

Combining those effects, CBO estimates that the net cost to the unified budget of enacting S. 1507 would be $2.8 billion over both the 2010–2019 and 2009–2014 periods. All of those effects reflect changes in direct spending. Enacting S. 1507 would not affect revenues.

S. 1507 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1507 is shown in Table 1. The costs of this legislation fall within budget function 370 (commerce and housing credit).

TABLE 1—ESTIMATED COSTS OF S. 1507

	By fiscal year, in millions of dollars—												
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2009–2014	2009–2019
CHANGES IN DIRECT SPENDING													
On-budget Effects:[1]													
Estimated Budget Authority	2,400	2,500	1,105	465	332	266	-23	-92	-548	-712	-845	7,068	4,848
Estimated Outlays	2,400	2,500	1,105	465	332	266	-23	-92	-548	-712	-845	7,068	4,848
Off-budget Effects:[1]													
Estimated Budget Authority	-2,400	-1,250	-553	-47	-33	-27	23	92	548	712	845	-4,309	-2,089
Estimated Outlays	-2,400	-1,250	-553	-47	-33	-27	23	92	548	712	845	-4,309	-2,089
Total Unified Budget Effects:													
Estimated Budget Authority	0	1,250	553	419	299	239	0	0	0	0	0	2,759	2,759
Estimated Outlays	0	1,250	553	419	299	239	0	0	0	0	0	2,759	2,759

[1] The Postal Service has stated that it will not be able to make the payment that it is required to make to the PSRHBF in 2009. If the full 2009 payment were not made, the estimated on-budget and off-budget effects of the legislation would change, but CBO estimates that the total unified effects for 2009 would still be zero.

Note: Positive numbers indicate increases in costs; negative numbers indicate reductions in costs.

Basis of estimate: CBO assumes that S. 1507 will be enacted near the end of fiscal year 2009. Enacting the bill would decrease Postal Service payments for retirees' health insurance premiums over the 2009–2014 period and increase those payments for subsequent years. The bill would affect outlays of the off-budget Postal Service Fund and the on-budget PSRHBF. CBO estimates that the net cost to the unified budget would total about $2.8 billion over the 2010–2019 period.

Postal Service retiree health benefits under current law

The Postal Service makes two annual payments over the 2009–2016 period for retirees' health insurance premiums. (USPS spending on those activities is classified as off-budget.) The agency makes a direct payment to the on-budget Federal Employees Health Benefits (FEHB) fund for current retirees. CBO estimates that this payment will be about $2.0 billion in 2009 and $2.2 billion in 2010, rising to $4.1 billion by 2016.

In addition, over the 2009–2016 period, the Postal Service is required to make specified annual payments that range from $5.4 billion to $5.8 billion to the PSRHBF, an on-budget account established by the Postal Accountability and Enhancement Act (Public Law 109–435) to prefund future retirees' health benefits. Under current law, funds in the PSRHBF may not be expended for retirees' health costs until fiscal year 2017.

Beginning in 2017, the Postal Service will make estimated annual payments to the PSRHBF to cover the "normal costs" of providing health benefits to future retirees. Those payments will be equal to the annual increase in retiree health care liabilities attributable to current employees. In addition, the agency will make annual payments amortized over 40 years to liquidate the "unfunded liability" for retirees' health benefits. The unfunded liability is the total liability accrued to date for retirees' health benefits minus the PSRHBF balance, that is, the amount that has not been set aside to cover future liabilities.

Table 2 displays Postal Service payments for retirees' health benefits under current law, and payments for retirees' health benefits and other changes in USPS costs that would result if S. 1507 is enacted.

TABLE 2—POSTAL SERVICE PAYMENTS FOR RETIREE HEALTH BENEFITS—OFF-BUDGET COSTS

	By fiscal year, in millions of dollars—											
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2009–2019
Current Law:.												
Estimated Payments to FEHB	2,000	2,200	2,505	2,765	3,132	3,466	3,777	4,108	0	0	0	23,953
Specified Payments to PSRHBF [1]	5,400	5,500	5,500	5,600	5,600	5,700	5,700	5,800	0	0	0	44,800
Estimated Payments for Normal Costs [2]	0	0	0	0	0	0	0	0	6,230	6,666	7,133	20,029
Estimated Amortization Payments	0	0	0	0	0	0	0	0	3,822	3,822	3,822	11,466
Total	7,400	7,700	8,005	8,365	8,732	9,166	9,477	9,808	10,052	10,488	10,955	100,248
S. 1507:												
Payments to PSRHBF	1,700	1,700	3,100	3,900	4,100	4,300	4,500	4,700	4,900	5,100	5,300	43,300
Estimated Payment for Normal Costs [3]	3,300	3,500	3,800	4,000	4,300	4,600	5,000	5,300	5,700	6,100	6,500	52,100
Estimated Impact on All Other USPS Costs [4]	0	1,250	553	419	299	239	0	0	0	0	0	2,759
Total	5,000	6,450	7,453	8,319	8,699	9,139	9,500	10,000	10,600	11,200	11,800	98,159
Change in Off-Budget Costs	-2,400	-1,250	-553	-47	-33	-27	23	92	548	712	845	-2,089

[1] The Postal Service has stated that it will not be able to make the full payment of $5.4 billion required in 2009. CBO has no basis for estimating the amount of any shortfall. However, anything less than a full payment would affect the 2009 change in off-budget costs, but CBO estimates that the total unified budget effect for 2009 would still be zero.

[2] These payments are equal to the annual increase in retiree health care liabilities attributable to current employees.

[3] These costs are based on information provided by the Office of Personnel Management.

[4] Total USPS expenses in 2008 were nearly $80 billion (on a cash basis), including spending on personnel, transportation, and facilities. If health care expenses are reduced by S. 1507, CBO expects net spending on these activities to increase.

Note: FEHB = Federal Employees Health Benefits fund; PSRHBF = Postal Service Retiree Health Benefits Fund.

Postal Service retiree health benefits proposed under S. 1507

The bill would authorize the USPS, over the 2009–2016 period, to make payments to the FEHB fund for current retirees' health insurance premiums from the PSRHBF. Under current law, funds in the PSRHBF are not available for spending until fiscal year 2017, and current retirees' health insurance premiums are paid for by USPS from sales of postage and other products.

S. 1507 also would replace the current specified payments into the PSRHBF for fiscal years 2009 through 2016 with lower payments that range from $1.7 billion in 2009 to $5.3 billion in 2019.

In addition, from 2009 through 2019, the bill would direct the Postal Service to make estimated annual payments to the PSRHBF to cover the normal costs of providing health benefits to future retirees. The agency would make estimated 40-year amortization payments toward the unfunded liability for retirees' health benefits beginning in 2020 instead of 2017.

Table 3 shows cash flows of the PSRHBF under current law and under the bill.

TABLE 3—POSTAL SERVICE RETIREE HEALTH BENEFITS FUND (PSRHBF) CASH FLOWS—ON-BUDGET COSTS

	By fiscal year, in millions of dollars—											
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2009–2019
Current Law:.												
Specified Payment from USPS[1]	-5,400	-5,500	-5,500	-5,600	-5,600	-5,700	-5,700	-5,800	0	0	0	-44,800
Estimated Normal Payments	0	0	0	0	0	0	0	0	-6,230	-6,666	-7,133	-20,029
Estimated Amortization Payments	0	0	0	0	0	0	0	0	-3,822	-3,822	-3,822	-11,466
Total	-5,400	-5,500	-5,500	-5,600	-5,600	-5,700	-5,700	-5,800	-10,052	-10,488	-10,955	-76,295
S. 1507:												
Payment to FEHB	2,000	2,200	2,505	2,765	3,132	3,466	3,777	4,108	0	0	0	23,953
Specified Payments from USPS	-1,700	-1,700	-3,100	-3,900	-4,100	-4,300	-4,500	-4,700	-4,900	-5,100	-5,300	-43,300
Estimated Normal Payments	-3,300	-3,500	-3,800	-4,000	-4,300	-4,600	-5,000	-5,300	-5,700	-6,100	-6,500	-52,100
Estimated Amortization Payments	0	0	0	0	0	0	0	0	0	0	0	0
Total	-3,000	-3,000	-4,395	-5,135	-5,268	-5,434	-5,723	-5,892	-10,600	-11,200	-11,800	-71,447
Change in On-Budget Costs	2,400	2,500	1,105	465	332	266	-23	-92	-548	-712	-845	4,848

[1] The Postal Service has stated that it will not be able to make the full payment of $5.4 billion required in 2009. CBO has no basis for estimating the amount of any shortfall. However, anything less than a full payment would affect the 2009 change in on-budget costs, but CBO estimates that the total unified budget effect for 2009 would still be zero.

Note: USPS = United States Postal Service; FEHB = Federal Employees Health Benefits fund.

Reduced spending from USPS Fund (Off-budget account)

The bill's changes in payments for retirees' health insurance premiums would lower costs of the Postal Service for those activities over the 2009–2014 period and raise the agency's costs in subsequent years. CBO also expects that lowering health care expenses would lead to an increase in other USPS costs totaling $2.8 billion over the 2009–2019 period. We estimate that enacting S. 1507 would reduce net USPS spending by $2.1 billion over the 10-year period—such spending is off-budget.

We expect that lowering the health care expenses of the Postal Service Fund by about $2 billion annually would lead the agency to modify its efforts to reduce other spending in future years. Faced with an imbalance of receipts from postal customers and operational costs, the Postal Service has made significant efforts to reduce spending in recent years. We expect that they will continue such efforts under current law.

Early in 2009, the Postal Service announced plans to cut spending by $5.9 billion over the 2009–2010 period. Just a few months later in response to worsening financial conditions, the agency accelerated the plan to cut $5.9 billion in 2009 alone. More recently, the Postal Service has announced the possibility of closing post offices, laying off employees, and making other reductions in service—cost-cutting measures that were not publicized earlier in 2009. CBO expects that by eliminating a $2 billion health care expense, enacting the bill would lead the agency to alter its cost-reduction program by cutting spending less aggressively than it would without the legislation. Consequently, CBO estimates that enacting this legislation would increase other postal expenses relative to current law.

CBO estimates that there would be no increase in net USPS outlays in 2009 because nearly all of the fiscal year will have elapsed by the time the legislation is enacted. We estimate that the increase in net USPS outlays in 2010 and 2011 would be about half of the reduction in required health care payments—about $1.2 billion in 2010 and $550 million in 2011. In fiscal years 2012 through 2014, we expect the increase in net USPS outlays to be nearly equivalent to the reduction in required payments as CBO expects that the agency will have its revenues and expenses more nearly aligned by that time.

Increased spending from PSRHBF (On-budget account)

CBO estimates that enacting S. 1507 would increase on-budget direct spending by $2.4 billion in 2009 and by about $4.8 billion over the 2009–2019 period. Those costs result from changes in cash flows of the PSRHBF as displayed in Table 3. S. 1507 would not affect the net cash flows of the FEHB fund (although under the bill's provisions, the payments to this fund would be made out of the PSRHBF rather than the Postal Service Fund).

CBO estimates that the payments from the PSRHBF would range from $2 billion in 2009 to $4.1 billion in 2016. In addition, over the 2009–2019 period, the bill would change the specified payments from the Postal Service Fund into the PRSHBF. As shown in Table 3, the current annual payments, ranging from $5.4 billion to $5.8 billion over the 2009–2016 period, would under the bill range from $1.7 billion to $5.3 billion over the 2009–2019 period.

Finally, S. 1507 would direct the Postal Service starting in 2009 to make estimated annual payments to the PSRHBF to cover the costs of providing health benefits to future retirees. Currently, payments for those so-called "normal costs" will not be made until 2017. CBO estimates that those payments would grow from $3.3 billion in 2009 to $6.5 billion by 2019. Under the bill, the agency also would make estimated 40-year amortization payments toward the unfunded liability for retirees' health benefits beginning in 2020 rather than in 2017 under current law.

CBO estimates that S. 1507 would increase the net spending from the PSRHBF for each of fiscal years 2009 through 2014 and decrease spending in subsequent years; over the 10-year period net spending would increase by $4.8 billion.

Net cost under S. 1507 (Unified budget)

CBO estimates that enacting S. 1507 would increase costs to the unified budget by about $2.8 billion over the 2009–2019 period. We estimate that the bill would increase on-budget spending from the PSRHBF by $4.8 billion over the 2009–2019 period. Those costs would be partially offset by decreased off-budget spending from the Postal Service Fund of $2.1 billion over the 10-year period.

Other provisions

S. 1507 would raise the Postal Service's debt limit from $3 billion to $5 billion for fiscal years 2009 and 2010. Because the legislation would lower USPS costs in those years, CBO does not expect the agency to use the additional authority. The bill also would preclude the Postal Service from paying bonuses to certain senior employees for years in which the agency lost money. Based on the total amount of such bonus payments in recent years, CBO estimates that savings would not be significant in any year.

Intergovernmental and private-sector mandates: S. 1507 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Mark Grabowicz and Kirstin Nelson; Impact on state, local, and tribal governments: Elizabeth Cove Delisle; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO 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 S. 1507 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):

Title: To amend chapter 89 of title 5 to reform Postal Service retiree health benefits funding, and for other purposes

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES

PART III. EMPLOYEES

Subpart G. Insurance and Annuities

CHAPTER 89. HEALTH INSURANCE

SECTION 8909. EMPLOYEES HEALTH BENEFIT FUND

POSTAL SERVICE RETIREE HEALTH BENEFIT FUND

8909a. Postal Service Retiree Health ¿Benefit *Benefits* Fund

* * * * * * *

(2)(B) Not later than June 30, ¿2017 *2019*, the Office shall compute, and by June 30 of each succeeding year shall recompute, a schedule including a series of annual installments which provide for the liquidation of any liability or surplus by September 30, ¿2056 *2059*, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

¿(3)(A) The United States Postal Service shall pay into such Fund—

¿(i) $5,400,000,000, not later than September 30, 2007;
¿(ii) $5,600,000,000, not later than September 30, 2008;
¿(iii) $5,400,000,000, not later than September 30, 2009;
¿(iv) $5,500,000,000, not later than September 30, 2010;
¿(v) $5,500,000,000, not later than September 30, 2011;
¿(vi) $5,600,000,000, not later than September 30, 2012;
¿(vii) $5,600,000,000, not later than September 30, 2013;
¿(viii) $5,700,000,000, not later than September 30, 2014;
¿(ix) $5,700,000,000, not later than September 30, 2015; and
¿(x) $5,800,000,000, not later than September 30, 2016.

(3)(A) The United States Postal Service shall pay into such Fund—

(i) $5,400,000,000, not later than September 30, 2007;
(ii) $5,600,000,000, not later than September 30, 2008;
(iii) $1,700,000,000, not later than September 30, 2009;
(iv) $1,700,000,000, not later than September 30, 2010;
(v) $3,100,000,000, not later than September 30, 2011;
(vi) $3,900,000,000, not later than September 30, 2012;
(vii) $4,100,000,000, not later than September 30, 2013;
(viii) $4,300,000,000, not later than September 30, 2014;
(ix) $4,500,000,000, not later than September 30, 2015;
(x) $4,700,000,000, not later than September 30, 2016.
(xi) $4,900,000,000, not later than September 30, 2017
(xii) $5,100,000,000, not later than September 30, 2018; and
(xiii) $5,300,000,000, not later than September 30, 2019.

(B) Not later than September 30, 2009, and by September 30 of each succeeding year through 2019, the United States Postal Service shall pay into such Fund the net present value computed under paragraph (1).

(C) Not later than September 30, 2020, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund the sum of—

(i) the net present value computed under paragraph (1); and

(ii) any annual installment computed under paragraph (2)(B).

SEC. 4. TEMPORARY INCREASE TO POSTAL SERVICE BORROWING LIMITATIONS.

(a) IN GENERAL.—For fiscal years 2009 and 2010, section 2005(a) of title 39, United States Code, shall be applied by substituting "$5,000,000,000" for the limitation specified in paragraph (1).

(b) REPAYMENT AND LIMITATION ON OUTSTANDING DEBT.—Any amount borrowed under the increase in borrowing authority provided under subsection (a) of this section shall be repaid by the Postal Service to the United States Treasury by not later than the end of fiscal year 2019. The Postal Service's total outstanding debt may not exceed the maximum amount allowable under section 2005(a)(2) of title 39, United States Code.

SEC. 5. CONSIDERATION OF POSTAL SERVICE FINANCIAL CONDITION.

Section 1207(c)(2) of title 39, United States Code, is amended by inserting "The arbitration board shall consider the financial condition of the Postal Service in making any decision." after the first sentence.

SEC. 6. ASSESSMENT OF FUTURE BUSINESS MODEL OF THE POSTAL SERVICE.

Section 710(a) of the Postal Accountability and Enhancement Act (Public Law 109–435; 120 Stat. 3247) is amended by striking the first and second sentences and inserting "The Comptroller General of the United States shall prepare and submit to the President and Congress a report that evaluates the options and strategies for the long-term structural and operational reforms of the United States Postal Service necessary to achieve financial stability and long-term fiscal viability. The final report required by this section shall be submitted by March 31, 2010.

SEC. 7. PROHIBITION ON BONUSES.

Section 3686 of title 39, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) PROHIBITION ON BONUSES.—Notwithstanding any provision of this section, including subsection (c), any bonus under this section—

"(1) subject to paragraph (2), shall be paid on October 1 following the date such bonus would have otherwise been paid if not for this subsection; and

"(2) shall not be paid if the Postal Service had a year-end net loss for the fiscal year preceding that October 1.".

VIII. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF SENATOR SUSAN M. COLLINS

It has been slightly more than three years since enactment of the Postal Accountability and Enhancement Act of 2006 (PAEA).[1] Given that span of time and the authorities provided in the Act, it is frustrating that the United States Postal Service (USPS) has failed to take the steps needed to fundamentally reform its operations and secure a stronger fiscal footing. Although the struggling economy has contributed to USPS's poor financial state, it has exacerbated the situation by failing to take advantage of the revenue-generating flexibilities afforded in the PAEA.

As Congress considers USPS's latest request for relief, it is appropriate to consider the most recent history in this saga. Every three years the USPS has come to Congress for financial relief in exchange for promises of future profitability. Regrettably, the era of sustained profitability has never materialized.

Nine years ago, in 2001, the Government Accountability Office (GAO) first placed USPS on its "high-risk list" because it faced formidable financial, operational, and human capital challenges that threatened its long-term viability.[2]

In 2003, Congress passed postal reform legislation that reduced USPS's pension costs by approximately $9 billion from fiscal year 2003 to 2005.[3]

In 2006, the PAEA relieved USPS of a $27 billion financial liability, primarily by transferring obligations for the retirement benefits of its employees with prior military service to the Treasury Department.[4] In addition, *based on USPS's own recommendation*, Congress established a "Postal Service Retiree Health Benefits Fund" (Fund) so that USPS could address one of its major operating costs—post-retirement health benefits for employees and retirees.[5] When Congress was considering the PAEA, the unfunded liability associated with these post-retirement health benefits was estimated to be between $47 billion and $57 billion. To pay down these substantial liabilities, PAEA requires USPS to prefund the benefits through annual payments into the Fund.[6] With USPS's support, Congress adopted this fiscally responsible payment stream to significantly reduce these unfunded obligations.

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[1] Pub. L. 109–435.
[2] GAO–07–310.
[3] Pub. L. 108–18.
[4] Pub. L. 109–435.
[5] Postal Service Proposal: Use of Savings for Fiscal Years After 2005, P.L. 108–18. September 30, 2003. See also Postal Pension Funding Reform: Issues Related to the Postal Service's Proposed Use of Pension Savings, GAO–04–238, pages 3–4 (Washington, DC: November 2003); CRS Report for Congress: Pension Issues Cloud Postal Reform Debate, Order Code RL32346, page 6 (Washington, DC: January 2006).
[6] Pub. L. 109–435.

After enactment of the PAEA, GAO removed USPS from its "high-risk" list in January 2007, noting that the new postal reform law gave USPS additional pricing flexibility, allowed it to retain earnings, and provided additional mechanisms to address continuing challenges related to USPS's increasingly competitive business environment.[7]

In 2009, with USPS once again in dire fiscal straights, the Postmaster General returned to Congress seeking legislative relief from obligations to fund future retiree health benefits, after making only two full payments into the Fund. At the Postmaster General's request, Congress acted to reduce by $4 billion the annual retiree health benefits payment that was due to the Fund. I reluctantly supported this reduction because USPS simply could not have made the full payment and was at risk of not meeting its payroll obligations.

The Postmaster General's request to Congress for relief from its payments for future retiree health benefits is just the most recent in a long history of USPS requests for financial assistance in exchange for the promise of becoming financially solvent—some day.

With the most recent proposal to modify the PAEA payments for future retiree health benefits, American taxpayers have been asked to shoulder additional risk to stem USPS's flow of red ink. Congress must break this pattern if we expect USPS to continue to provide the crucial services that form the linchpin of a $900 billion mailing industry that employs close to nine million people.

The Postal Service Retiree Health Benefits Funding Reform Act of 2009 would restructure the Fund based on a proposal that was sent hastily from the Administration to Congress last year. There are two significant problems with the adjusted payment schedule set forth in this legislation: (1) GAO estimates that it would increase USPS's unfunded liability for future retiree health benefits by more than $4 billion by the end of fiscal year 2019 and (2) it would require USPS to make much steeper payments beginning in 2015 than under current law, payments that the Postal Service is very unlikely to be able to handle.

According to the Office of Personnel Management (OPM) and GAO, the payment stream established in the PAEA would reduce USPS's unfunded liabilities for future retiree health benefits to $39.2 billion by 2017. This legislation, however, would reduce USPS's payments in the next several years, thereby increasing the USPS's unfunded liability for these obligations by more than $4 billion by the end of fiscal year 2019 (compared to current law).

The USPS does not show any signs of changing its financial condition enough to be prepared to make the increasingly steep payments this legislation would mandate after 2015. In fiscal year 2009, USPS was only able to pay $1.4 billion into the Fund—and only after Congress provided $4 billion in relief from the $5.4 billion payment required by the PAEA. If USPS was unable to make a $5.4 billion payment in fiscal year 2009, it is unclear how USPS could make the far greater payments that the legislation would require in the future, including a payment as high as $11.8 billion. Indeed, given the likelihood that USPS would not be able to make

[7] GAO–07–310.

these high payments and would need to seek additional relief in the future, this legislation undoubtedly would further increase the amount of the USPS's unfunded liabilities for future retiree health benefits.

To address both of these concerns, I offered an alternative that would have provided USPS some limited initial relief from the PAEA payment stream but also would have limited the increase in future year payments to the Fund. GAO estimated that this approach would only increase the unfunded liability related to these benefits by approximately $500 million dollars at the end of the 10–year period covered by the bill (compared to current law)—a stark contrast to the $4 billion increase in the underlying bill. Moreover, because the annual payments would increase at a slower rate, USPS would be in a better position to actually make the payments. Unfortunately, the Committee failed to adopt this amendment.

I ultimately supported moving this legislation to the floor, particularly after the Committee adopted amendments Senator Coburn and I proposed to keep the pressure on USPS to fundamentally reform its operations. One amendment I offered, which was adopted by the Committee, would retain the existing $15 billion debt ceiling for USPS. Senator Coburn's amendment, which I had included as a portion of another amendment I filed at the markup, would require the arbitrator to consider USPS's financial condition when rendering collective bargaining decisions. For Congress to maintain pressure on USPS to make needed reforms, the proposals set forth in these amendments are critical additions to the legislation.

Nonetheless, given USPS's past performance following legislative relief from its financial obligations, I am extremely concerned that the two factors I have outlined above will place USPS back on Congress's doorstep in a few short years, should this legislation be enacted. And, because of the changes the bill would make, the financial obligations facing the USPS would be more daunting than before. If the bill is considered on the floor, I likely will offer additional amendments designed to place the USPS on a stronger financial footing moving forward.

In an April 2010 report on USPS's strategies and options to facilitate progress toward financial viability, GAO indicated that USPS's business model is not viable due to its inability to reduce costs sufficiently in response to continuing mail volume and revenue declines.[8] Despite USPS's efforts to cut costs, GAO found it has had difficulty eliminating costly excess capacity and that its revenue initiatives have had limited results. These GAO findings indicate that the USPS may be able to improve its financial viability only if it takes more aggressive action to reduce costs. For example, USPS's capability to match its workforce to its changing workload is restricted by USPS's inability to use part-time workers, and to cross-train employees to work outside their crafts. GAO's report also stressed the importance of USPS continuing to fund its retiree health benefit obligations to the maximum extent that its finances permit.

[8] GAO–10–455.

It will take all members of the postal community, including USPS employees and management, members of the mailing community, Congress, and the Administration to contribute to the solution to this financial crisis. Any legislation passed by Congress should reinforce these goals, not undermine them.

SUSAN M. COLLINS.

ADDITIONAL VIEWS OF SENATOR DANIEL K. AKAKA AND SENATOR CARL LEVIN

The Committee report states that an amendment by Senator Coburn would require arbitrators to take the financial health of the Postal Service into account when a labor contract goes to binding arbitration, but provides no information on the need for that provision. We have concluded that there is no need for the amendment, and that specifying what factors arbitrators must consider is likely to distort the collective bargaining and labor arbitration process.

At a hearing of the Committee's Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, President Fred Rolando of the National Association of Letter Carriers testified that under Title 39 U.S.C., arbitrators may and consistently do take the financial health of the Postal Service into account during arbitration.[1] Similarly, William Burrus, President of the American Postal Workers Union (APWU), testified that in each of the three negotiated and three arbitrated labor contracts in the last 16 years, the financial health of the Postal Service was a factor at the bargaining table and during arbitration.[2] Several arbitrated labor disputes, in fact, have stated that certain decisions were made in light of financial conditions at the Postal Service.[3]

Title 39 sets some general workforce policies for the Postal Service, which some have suggested tie the hands of postal labor arbitrators. According to 39 U.S.C. § 1003, "It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy."

This laudable policy is subject to the collective bargaining process. The Postal Service does not set the pay and working conditions of bargaining unit postal employees; it bargains over them with its four employee labor unions.

Should labor and management fail to agree during periodic contract negotiations, 39 U.S.C. § 1207 provides for a neutral arbitration board to settle disputed items. According to subparagraph (c)(2): "The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect." *Currently, the law provides no direction or constraints on what the arbitrators*

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[1] Senate Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security Hearing, "The U.S. Postal Service in Crisis" (S. Hrg. 111–409), p. 40, August 6, 2009.

[2] *Id.* at p. 50.

[3] *See* Interest Arbitration Proceedings, USPS and National Rural Letter Carriers' Association, Opinion and Award, pp. 16–18, 28, February 3, 2002 and Interest Arbitration with the National Association of Letter Carriers, p. 29, September 19, 1999.

consider, requiring only that there is a full and fair hearing at which each side may present its case. Rather, the law offers only general guidance to the Postal Service, not arbitrators.

During the Committee's consideration of S. 1507, an amendment from Senator Coburn was adopted, by voice vote, which would for the first time add an explicit criteria that the arbitration panel would be required to consider. It would amend § 1207(c)(2) by adding "The arbitration board shall consider the financial condition of the Postal Service in making any decision."

This amendment does not change the Postal Service's general pay comparability or other compensation policies under 39 U.S.C. § 1003, only how disputes should be settled if collective bargaining fails. Moreover, it implies a lopsided standard for arbitrators, favoring management, by requiring that they consider financial health of the Postal Service and no other factors. The language also presumes that each labor contract will go to arbitration, and does not require any consideration of the financial state of the Postal Service during contract negotiations before any arbitration.

According to the amendment's supporters, one of the primary reasons for inclusion of this language is to keep labor costs down during times of financial difficulties for the Postal Service.[4] However, the Congressional Budget Office (CBO) estimates for budgetary impacts of S. 1507, as amended, makes no mention of any savings as a result of the arbitration amendment. But even if it were effective in bringing labor costs down, this is not the way to do it. As APWU President Burrus testified, "Free collective bargaining is either free or it's not."[5] Within the confines of the collective bargaining process, the parties must be free to reach their own agreement. It does not work to establish a process allowing the parties to bargain freely over wages and other issues, but then allow the employer recourse to a neutral arbitrator required by law not to be neutral.

The Postal Service certainly faces an immediate financial crisis, brought on by customers using the mail less and accelerated by the worst economic crisis since the Great Depression. The Postal Service needs relief from its retiree health prefunding payments to address its critical financial deficits. Efforts to reduce the Postal Services workforce costs, while important, should be examined separately. We strongly support the aims of this bill, with the exception of the amendment by Senator Coburn.

DANIEL K. AKAKA.
CARL LEVIN.

[4] Senate Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security Hearing, "The U.S. Postal Service in Crisis" (S. Hrg. 111–409), pp. 6, 10, 25, August 6, 2009.

[5] *Id.* at p. 50.