

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

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**MEMORANDUM**

**February 19, 2020**

**To: Members of Committee on Oversight and Reform**

**Fr: Committee Staff**

**Re: Hearing on “Legislative Proposals to Put the Postal Service on Sustainable Financial Footing”**

On **Wednesday, February 24, 2020, at 10:00 a.m.**, the Committee will hold a hybrid hearing to review legislative proposals to place the Postal Service on a more sustainable financial footing. The Committee will consider a discussion draft that includes several provisions to relieve the financial burdens under which the Postal Service is currently operating and to enhance transparency regarding performance. That draft is being circulated with this memo. This memo provides background on the discussion draft and the need for these reforms, as well as an update on the oversight investigation being conducted by the Committee. The Committee recognizes that there are many additional proposals to reform both the finances and operations of the Postal Service and will consider those as the legislative process moves forward.

**I. DISCUSSION DRAFT OF POSTAL REFORM LEGISLATION**

The discussion draft includes provisions on Medicare integration, repealing a requirement for the Postal Service to pre-fund retiree health care, and service performance standards.

**A. Medicare Integration**

While Postal employees currently pay into Medicare and are eligible to enroll when they reach the age 65, roughly 25 percent of the Postal workforce never enroll. Requiring Postal employees to enroll in Medicare when they become eligible to do so would help with the long-term financial viability of the Postal Service. This requirement already exists for most private sector employees. If all Postal employees were required to enroll in Medicare when eligible, the Postal Service would save roughly \$10 billion over a ten-year period, according to the latest Congressional Budget Office (CBO) score.<sup>1</sup>

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<sup>1</sup> Congressional Budget Office, *H.R. 756 Postal Service Reform Act of 2017* (June 1, 2017) (online at [www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr756.pdf](http://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr756.pdf)).

Medicare integration is essential to ensure that the Postal Service Retiree Health Benefit Fund (PSRHBF) can pay for retiree health benefits (RHB) for as long as possible. Without Medicare integration, or some other reform, it is likely the PSRHBF will be exhausted by 2030.<sup>2</sup> Medicare integration reduces benefit payments from the PSRHBF and reduces premium costs for both active employees and retirees (assuming the retirees were previously paying FEHB premiums). Even retirees who were not previously enrolled could benefit financially from Medicare integration by eliminating some deductibles and copayments.

The bill would require future retirees to enroll in Medicare in order to participate in the Postal Employee Benefits Program (similar to the Federal Employee Health Benefit Program but established as a separate risk pool). However, the bill includes several exceptions:

- Residents of foreign countries and others without access to Medicare providers would not automatically be enrolled in Medicare; and
- Retirees who do not have the requisite 40 quarters of creditable service would not be automatically enrolled in Medicare. This would include many Civil Service Retirement System (CSRS) retirees.

In addition, current retirees would be granted a three-month grace period from the Medicare penalty for late enrollment but would not be required to enroll.

## **B. Eliminating Requirement to Pre-Fund Retiree Health Benefits**

The Postal Service has been struggling to comply with requirements put in place by Congress in 2006 to make billions of dollars of payments each year to pre-fund retiree health benefits. Before 2006, the Postal Service maintained a “pay-as-you-go” system for retiree health benefits, under which it paid its annual share of premiums for employees participating in the FEHB. In 2006, Congress enacted the Postal Accountability and Enhancement Act (PAEA). PAEA required the Postal Service “to start fully ‘prefunding’ retiree health benefits” by making “annual prefunding payments to a newly established fund to build up funds to cover the Postal Service’s share of future retiree health benefit costs” for all employees—not just those who are eligible to retire.<sup>3</sup> No other federal agency is required to pre-fund retiree health benefits, and it is not a normal practice in the private sector.

PAEA required the Postal Service to pay annual amounts ranging from \$5.4 billion to \$5.8 billion into the PSRHBF between 2007 and 2016. At the end of that ten-year period, these pre-funding payments ended, and the Postal Service was allowed to return to lower annual payments based on a 40-year amortization schedule for postal retiree health benefits and the “normal costs” of retiree health benefits for current employees.<sup>4</sup>

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<sup>2</sup> Government Accountability Office, *Postal Retiree Health Benefits: Unsustainable Finances Need to Be Addressed* (Oct. 1, 2018) (online at [www.gao.gov/products/GAO-18-602](http://www.gao.gov/products/GAO-18-602)).

<sup>3</sup> Government Accountability Office, *Postal Retiree Health Benefits: Unsustainable Finances Need to be Addressed* (Aug. 2018) (online at [www.gao.gov/assets/700/694188.pdf](http://www.gao.gov/assets/700/694188.pdf)).

<sup>4</sup> *Id.*

PAEA was enacted in 2006 after the Postal Service had earned “modest profits from FY2004 through FY2006” and with the expectation that the Postal Service would continue to be on relatively sound financial footing.<sup>5</sup> Unfortunately, this has not been the case. The Postal Service currently has approximately \$35 billion in unfunded retiree health benefit liabilities on its books because it has not paid into the fund for a decade. Eliminating this requirement and would eliminate this liability and improve the Postal Service’s finances.

### **C. Service Performance Reporting**

After the Postmaster General implemented operational changes in mid-July, service performance was substantially impacted. While these operational changes were put on hold in August 2020, performance has remained persistently low, with first-class mail falling below 63 percent on-time delivery the week before Christmas. While service has rebounded slightly to 80 percent of first-class mail being delivered on-time as of the week ending on February 6, 2021, it has not returned to pre-July levels.

The bill would require the Postal Service to set targets for service performance and to report on its progress, which would help hold the Postal Service accountable.<sup>6</sup> This provision would help ensure that the Postal Service meets its standards by requiring the Postal Service to establish a set of service performance targets for market dominant products. These targets will help the Postal Regulatory Commission (PRC), the Postal Service’s regulatory authority, evaluate whether the Postal Service is in compliance with its service standards. In addition, these targets would be required to be posted publicly on the Postal Service website.

This section also creates greater transparency by requiring the Postal Service to report on its performance on nationwide, area, and district levels and submit a plan to the PRC on how it will address its failure to meet standards. This plan must be implemented after PRC feedback.

## **II. BACKGROUND ON POSTAL SERVICE’S FINANCIAL CHALLENGES**

The Postal Service’s financial condition has been deteriorating over the past decade due to a number of factors, including a decline in first-class mail, expenses increasing more rapidly than revenues, and the requirement to pre-fund retiree health benefits. As a result, the Postal Service faces challenges with having enough cash on hand to conduct its operations. For these reasons, the Government Accountability Office (GAO) has placed the Postal Service’s financial condition on its “high-risk” list since 2009. Below is additional background on the challenges faced by the Postal Service and a summary of previous legislative reform efforts.

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<sup>5</sup> Congressional Research Service, *The Postal Accountability and Enhancement Act: Overview and Issues for Congress* (Dec. 14, 2009) (online at <https://fas.org/sgp/crs/misc/R40983.pdf>).

<sup>6</sup> United States Postal Service, *USPS FY20Q2-FY21Q2TD Weekly Service Performance: Market Dominant Products Through Week 2-6* (Feb. 18, 2021).

## A. Challenges Faced by the Postal Service

- **Universal Mail Service Requirement** – Prior to 1970, “mail delivery in the United States was the responsibility of the U.S. Post Office Department, a Cabinet-level department in the executive branch.”<sup>7</sup> In 1970, Congress passed the Postal Reorganization Act, which created the United States Postal Service (USPS) “as an independent establishment of the executive branch of the Government of the United States.”<sup>8</sup> According to 39 U.S.C. § 101(a), the Postal Service shall “provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities.”
- **Decline in First-Class Mail** – In fiscal year 2020, first-class mail and marketing mail comprised 51.5% of Postal Service revenue and 90.4% of its total volume, or approximately \$37.7 billion in revenue. This is down roughly \$3 billion from approximately \$40.8 billion in revenue for these two classes in fiscal year 2019.<sup>9</sup> Also in 2020, GAO reported that “First-Class Mail volume has declined 44 percent since fiscal year 2006, the year that total mail volume peaked.”<sup>10</sup>
- **Increase in Packages and Shipping** – In fiscal year 2020, due to “the surge in e-commerce associated with the COVID-19 pandemic,” the revenue generated from packages and shipping for the first-time surpassed revenue from first-class mail, representing 39 percent of the Postal Service’s revenue or approximately \$28.5 billion. However, packages and shipping generated only 5.7% of total volume. This is a fundamental problem for the Postal Service as “the costs to process and deliver these services are higher than the costs associated with First-Class Mail on a per-piece basis.”<sup>11</sup>
- **Increase in Expenses** – Since GAO first designated the Postal Service as high-risk, the Postal Service’s finances have worsened due to “increased employee compensation and benefit costs, and increased unfunded liabilities and debt.”<sup>12</sup> In an effort to reduce personnel costs, the Postal Service has made deep cuts in its workforce. According to GAO, between 1999 and 2013, the Postal Service’s

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<sup>7</sup> Congressional Research Service, *Reforming the U.S. Postal Service: Background and Issues for Congress* (Aug. 25, 2016) (online at [www.crs.gov/reports/pdf/R44603](http://www.crs.gov/reports/pdf/R44603)).

<sup>8</sup> Pub. L. 91-375.

<sup>9</sup> United States Postal Service, *Form 10-K for the Fiscal Year Ended September 30, 2020* (online at <https://about.usps.com/what/financials/10k-reports/fy2020.pdf>).

<sup>10</sup> Government Accountability Office, *U.S. Postal Service: Congressional Action is Essential to Enable a Sustainable Business Model* (May 2020) (online at [www.gao.gov/assets/710/706729.pdf](http://www.gao.gov/assets/710/706729.pdf)).

<sup>11</sup> United States Postal Service, *Form 10-K for the Fiscal Year Ended September 30, 2020* (online at <https://about.usps.com/what/financials/10k-reports/fy2020.pdf>).

<sup>12</sup> Government Accountability Office, *U.S. Postal Service: Congressional Action is Essential to Enable a Sustainable Business Model* (May 2020) (online at [www.gao.gov/assets/710/706729.pdf](http://www.gao.gov/assets/710/706729.pdf)).

“workforce decreased by more than 288,000.”<sup>13</sup> The Postal Service has also negotiated with its labor unions to allow the increased use of non-career employees. In fiscal year 2020, the Postal Service’s workforce totaled approximately 644,000 employees, of whom there were “approximately 496,000 career employees and approximately 148,000 non-career employees.”<sup>14</sup>

- **Liquidity Challenges** – As of September 30, 2020, the Postal Service had \$14.4 billion in liquid assets. This is up from \$8.8 billion at the end of fiscal year 2019. During fiscal year 2020, the Postal Service held approximately \$13.2 billion in average daily liquidity balance, which equates to roughly 66 days’ worth of cash on hand to maintain operations and meet payroll. The increase in liquid assets in fiscal year 2020 is attributable to the deferral of Social Security payments under the CARES Act, the non-payment of statutory contributions to CSRS, PSRHB, and FERS, and increased revenue at the end of the year due to an increase in shipping and package business. However, although its liquidity has improved, “it remains insufficient to support an organization with approximately \$82 billion in annual operating expenses, to make capital investment necessary for continuity of operations, and prepare for unexpected contingencies.”<sup>15</sup>

#### **B. Previous Unsuccessful Efforts to Pass Postal Reform Legislation**

During the 115th Congress, the Committee passed by voice vote H.R. 756, the Postal Service Reform Act of 2017. This bipartisan legislation would have required Postal Service employees and retirees, including those over the age of 65, to enroll in Medicare if they had not already done so. The bill also would have imposed a two percent increase in postal rates and required increased delivery of mail to centralized delivery points (cluster boxes). According to the CBO, the bill would have saved taxpayers nearly \$6 billion over ten years.<sup>16</sup> However, the legislation was never brought before the House of Representatives for consideration.

During the 116th Congress, the Committee staff worked with minority staff and stakeholders on draft postal legislation. This bill would have been more comprehensive and included items of interest to stakeholders such as Merit Service Protection Board (MSPB) appeal rights for postal supervisors, the merging of the Postal Service and Postal Regulatory Commission Inspectors General into a single IG, and an allowance for the Postal Service to implement innovative non-postal services to increase revenue. However, the onset of the coronavirus pandemic, and the resulting strains on postal operation, caused momentum on that effort to wane. As a result, no legislation was introduced or considered by the Committee.

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<sup>13</sup> *Id.*

<sup>14</sup> United States Postal Service, *Form 10-K for the Fiscal Year Ended September 30, 2020* (online at <https://about.usps.com/what/financials/10k-reports/fy2020.pdf>).

<sup>15</sup> *Id.*

<sup>16</sup> Congressional Budget Office, *H.R. 756, Postal Service Reform Act of 2017* (June 1, 2017) (online at [www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr756.pdf](http://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr756.pdf)).

### III. UPDATE ON OVERSIGHT INVESTIGATION

Since last summer, the Committee has been investigating service performance declines at the Postal Service in the wake of changes implemented during the coronavirus pandemic and amid increases in election-related mail and package volumes.

On July 20, 2020, the Committee sent a letter to the Postmaster General to request an explanation for documents that had recently become public that showed significant changes to overtime and delivery schedules.<sup>17</sup>

On July 22, 2020, the Postal Service General Counsel responded and denied that changes had been ordered by Postal Service headquarters. He stated that the document that had been publicly released “was prepared by Southern Area leadership and was distributed in the Southern Area” and that its contents were not “official statements of Postal Service policy.” This official suggested that no significant, nationwide changes to delivery schedules were being implemented which would have required approval by the Postal Regulatory Commission.<sup>18</sup>

However, around the same time, reports surfaced that the Postal Service had initiated a new pilot program that shifted the sorting of mail from the morning before delivery to the afternoon when delivery routes have been completed.<sup>19</sup> The Postal Service reportedly had already implemented this program at hundreds of postal facilities across the country.

On August 24, 2020, Postmaster General DeJoy testified before the Committee about his role in the service performance declines, acknowledging the declines and his possible role:

While we have had temporary service decline, which should not have happened, we are fixing this. In fact, last week, service improved across all major mail and package categories and I am laser focused on improving service for the American public.<sup>20</sup>

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<sup>17</sup> Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, Chairman Gerald E. Connolly, Subcommittee on Government Operations, Chairman Stephen F. Lynch, Subcommittee on National Security, and Rep. Brenda L. Lawrence, to Postmaster General Louis DeJoy, United States Postal Service (July 20, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-07-20.CBM%20GEC%20to%20DeJoy%20-PMG%20re%20Postal%20Service%20Changes.pdf>).

<sup>18</sup> Letter from Thomas J. Marshall, General Counsel and Executive Vice President, United States Postal Service, to Chairwoman Carolyn B. Maloney, House Committee on Oversight and Reform, Chairman Gerald E. Connolly, Subcommittee on Government Operations, Chairman Stephen F. Lynch, Subcommittee on National Security, and Rep. Brenda L. Lawrence (July 22, 2020) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Marshall%20Response%20to%20Maloney%20et%20al%20re%20USPS%20Operational%20Changes\\_07-22-2020\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Marshall%20Response%20to%20Maloney%20et%20al%20re%20USPS%20Operational%20Changes_07-22-2020_0.pdf)); Letter from Thomas J. Marshall, General Counsel and Executive Vice President, United States Postal Service, to Ranking Member Gary C. Peters, Senate Committee on Homeland Security and Governmental Affairs (July 22, 2020) (online at [www.hsgac.senate.gov/imo/media/doc/20200722\\_USPS%20Response%20to%20Peters%20Jul%2017%20Ltr.pdf](http://www.hsgac.senate.gov/imo/media/doc/20200722_USPS%20Response%20to%20Peters%20Jul%2017%20Ltr.pdf)).

<sup>19</sup> National Association of Letter Carriers, *USPS Announce New ESAS Delivery Test Initiative Test* (July 21, 2020) (online at [www.nalc.org/news/nalc-updates/usps-announces-new-esas-delivery-initiative-test](http://www.nalc.org/news/nalc-updates/usps-announces-new-esas-delivery-initiative-test)).

<sup>20</sup> Committee on Oversight and Reform, *Hearing on Protecting the Timely Delivery of Mail, Medicine, and Mail-in Ballots*, 116th Cong. (Aug. 24, 2020) (online at <http://oversight.house.gov/legislation/hearings/protecting-the-timely-delivery-of-mail-medicine-and-mail-in-ballots>).

Following the hearing, on September 2, 2020, Chairwoman Maloney issued a subpoena requiring the Postal Service to produce 17 categories of documents, including all documents or communications referring or relating to “proposed or actual changes” to Postal Service operations; to the treatment of election mail as First Class mail ahead of the November 2020 elections; and to the internal Postal Service documents made public on July 14, 2020.<sup>21</sup>

While the Postal Service has produced documents, full compliance has not been achieved. On a phone call earlier this week, Chairwoman Maloney pressed Postmaster General DeJoy to complete production of several categories of documents under the subpoena, including those relating to the operational changes. Today, the Postal Service General Counsel relayed to the Committee that Postal Service will be producing those documents prior to the hearing.

### **III. WITNESSES**

**The Honorable Ron Bloom**

Chairman  
United States Postal Service Board of Governors

**Mr. Louis DeJoy**

Postmaster General  
United States Postal Service

**Ms. Tammy Whitcomb**

Inspector General  
United States Postal Service

**Mr. Mark Dimondstein**

President  
American Postal Workers Union, AFL-CIO

**Mr. Joel Quadracci**

Chairman, President, and Chief Executive Officer  
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<sup>21</sup> Committee on Oversight and Reform, Subpoena to Louis DeJoy, Postmaster General, United States Postal Service (Sept. 2, 2020).