

UNITED STATES POSTAL SERVICE FINANCIAL RELIEF
ACT OF 2009

JULY 21, 2009.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. TOWNS, from the Committee on Oversight and Government
Reform, submitted the following

R E P O R T

[To accompany H.R. 22]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
was referred the bill (H.R. 22) to amend chapter 89 of title 5,
United States Code, to allow the United States Postal Service to
pay its share of contributions for annuitants' health benefits out of
the Postal Service Retiree Health Benefits Fund, having considered
the same, report favorably thereon with an amendment and rec-
ommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “United States Postal Service Financial Relief Act of 2009”.

SEC. 2. GOVERNMENT CONTRIBUTIONS FOR POSTAL ANNUITANTS’ HEALTH BENEFITS.

(a) IN GENERAL.—Paragraph (2)(A) of section 8906(g) of title 5, United States Code, is amended to read as follows:

“(2)(A)(i) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after July 1, 1971, or for a survivor of such an individual or of an individual who died on or after July 1, 1971, while employed by the Postal Service, shall—

“(I) except as provided in clause (ii), be paid by the Postal Service through September 30, 2016; and

“(II) after September 30, 2016, be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the Postal Service.

“(ii) The Government contributions payable under this paragraph for a fiscal year which is within the period beginning with fiscal year 2009 and ending with fiscal year 2011 shall be paid in the manner set forth in clause (i)(II) (rather than clause (i)(I)).”

(b) EFFECTIVE DATE; RECOVERY OF PRIOR PAYMENTS; DEFINITIONS.—

(1) EFFECTIVE DATE.—This section and the amendment made by this section shall be effective as of October 1, 2008, and shall apply with respect to Government contributions payable for pay periods beginning on or after that date.

(2) RECOVERY OF PRIOR PAYMENTS.—In the case of any direct contributions made for any pay period beginning on or after the effective date of this section and ending before the date of enactment of this Act, the United States Postal Service may recover the amount of those direct contributions so made through offsets against any amounts which (but for this paragraph) would otherwise be payable, on or after such date of enactment, under section 8909a of title 5, United States Code.

(3) DEFINITION.—For purposes of this subsection the term “direct contributions” refers to contributions payable in the manner described in subclause (I) of section 8906(g)(2)(A)(i) of title 5, United States Code (as amended by subsection (a)).

SEC. 3. TECHNICAL CORRECTION.

The heading for section 8909a of title 5, United States Code, is amended by striking “**Benefit**” and inserting “**Benefits**”.

PURPOSE AND SUMMARY

H.R. 22, the United States Postal Service Financial Relief Act of 2009, was introduced by Representative John McHugh on January 6, 2009. H.R. 22, as ordered reported, would amend title 5 of the United States Code to permit the United States Postal Service (Postal Service) to pay the health care premiums for its current retirees from the Postal Service Retiree Health Benefits Fund (RHBF) in fiscal years 2009, 2010, and 2011. The legislation would provide temporary financial relief to the Postal Service, saving over \$2 billion in operating funds each fiscal year between 2009 and 2011. In short, the bill is intended to provide the Postal Service with relief from its current financial crisis.

BACKGROUND AND NEED FOR LEGISLATION

The Postal Accountability and Enhancement Act¹ (PAEA) requires the Postal Service to make two separate payments for postal retiree health benefits. Through September 30, 2016, the Postal Service must pay its share of insurance premiums for current annuitants’ health benefits.² The Postal Service estimates these pay-

¹ P.L. 109-435.

² 5 U.S.C. 8906(g)(2)(A).

ments at about \$2 billion per year currently, rising eventually to \$4.2 billion. The premium payments are made monthly out of the Postal Service's operating funds.

In addition, the PAEA established the RHBF and required the Postal Service to annually deposit funds to pre-fund the health insurance premiums of future Postal Service retirees.³ The PAEA specifies the payments for the first ten years, ranging from \$5.4 billion to \$5.8 billion for fiscal years 2007 through 2016.⁴ After 2016, the Office of Personnel Management is directed to recalculate the amount of the remaining liability and to establish a payment schedule to amortize the remaining liability.⁵ The payment schedule for the first ten years was established primarily to make the PAEA budget neutral, responding to the concerns of the Office of Management and Budget at the time the PAEA was passed, rather than corresponding to actuarial requirements or financial conditions at the Postal Service.

Faced with a steep decline in mail volume, rising costs, a growing delivery network, and the recession, the Postal Service is presently experiencing an unprecedented deterioration in its financial condition. For May 2009, the Postal Service's preliminary, unaudited financial reports showed a loss of nearly \$700 million, largely due to ongoing decreases in mail volume. This followed a loss of \$1.9 billion in the second quarter of FY 2009.⁶ In May 2009, the Postal Service reported that it had incurred net losses from operations in 10 of the previous 11 fiscal quarters and anticipates losses of over \$6 billion and a cash shortfall of over \$1.5 billion for the year.⁷ The retiree health benefits payments required by the PAEA have accelerated this financial crisis.

As amended, H.R. 22 would amend chapter 89 of title 5, United States Code, to allow the Postal Service's share of contributions for annuitants' health benefits to come out of the RHBF for FY 2009 through FY 2011. H.R. 22 would provide approximately \$2 billion in relief to the Postal Service in FY 2009 and over \$2 billion in subsequent years. H.R. 22 would not affect the Postal Service's legal obligation to continue making payments into the RHBF to pre-fund future retirees' health premiums. The RHBF contains about \$32 billion and will continue to grow after H.R. 22 is enacted into law.⁸

The Postmaster General has stated that, given its current financial situation, the Postal Service is not in a position to reduce its current cost-cutting efforts even if Congress provides financial relief by enacting H.R. 22.⁹ In addition, the Inspector General of the Postal Service testified that even if the Postal Service meets its aggressive cost-cutting goals for FY 2009, it would face "a gap be-

³ 5 U.S.C. 8909a(a).

⁴ 5 U.S.C. 8909(a)(d)(3)(A).

⁵ 5 U.S.C. 8909a(d)(2)(B).

⁶ US Postal Service. (2009). SEC Form 10-Q for the quarter ended March 31, 2009. Available online from the Postal Regulatory Commission at http://www.prc.gov/Docs/63/63038/Final_Quarter_II_FY_09_-_10Q.pdf.

⁷ USPS, Postal Service Ends Second Quarter with \$1.9 Billion Loss (May 6, 2009) (online at www.usps.com/communications/newsroom/2009/pr09_047.htm).

⁸ National League of Postmasters of the U.S., Refinancing USPS Retiree Health Benefits, Postmasters Advocate (March 2009).

⁹ Letter of Postmaster General John E. Potter to Congressional Budget Office Director Douglas Elmendorf (March 25, 2009).

tween costs and revenues of as much as \$6 billion,”¹⁰ further underscoring that the Postal Service would continue to cut costs despite receiving relief under H.R. 22.

LEGISLATIVE HISTORY

H.R. 22 was introduced on January 6, 2009 by Representative McHugh and referred to the Committee on Oversight and Government Reform and the Subcommittee on Federal Workforce, Postal Service, and the District of Columbia. As introduced, H.R. 22 would permit the Postal Service to pay its share of its current retirees’ health premiums out of the RHBF for eight years.

On March 25, 2009, the Subcommittee held a hearing entitled “Restoring the Financial Stability of the U.S. Postal Service: What Needs to be Done,” at which the bill was discussed.

The Subcommittee held a markup of H.R. 22 on June 24, 2009, and adopted by voice vote an amendment in the nature of a substitute to H.R. 22, limiting relief to three years. The Subcommittee then ordered H.R. 22 reported as amended, by voice vote.

On July 10, 2009 the Committee held a markup of H.R. 22. The Committee adopted the Subcommittee’s amendment in the nature of a substitute by unanimous consent, and ordered H.R. 22 reported as amended, by voice vote.

SECTION-BY-SECTION

Sec. 1. Short title

The short title of the bill is the United States Postal Service Financial Relief Act of 2009.

Sec. 2. Government contributions for postal annuitants’ health benefits

Subsection (a) of section 2 would amend paragraph (2)(A) of section 8906(g) of title 5, United States Code to permit the Postal Service to pay its share of the health premiums for current retirees out of the Postal Service Retiree Health Benefits Trust Fund in FY 2009 through FY 2011.

Subsection (b) would make this authority retroactive to October 1, 2008, and would allow the Postal Service to recover premium payments that it has made in FY 2009.

Current law directs the Postal Service to begin making payments for the health premiums of its current retirees out of the RHBF in 2016. Section 2 would allow the Postal Service to make the payments out of the RHBF in FY 2009 through FY 2011. Furthermore, for monthly premium payments that the Postal Service has made from its operating funds from October 1, 2008 until passage of H.R. 22, section 2 would permit the Postal Service to recover the total of such payments from the RHBF.

Sec. 3. Technical correction

Section 3 would make a technical correction to section 8909a of title 5, United States Code, by striking “Benefit,” and inserting “Benefits.”

¹⁰ Committee on Oversight and Government Reform, Hearing on Restoring the Financial Stability of the U.S. Postal Service: What Needs to be Done? Written testimony of David Williams, Inspector General of the United States Postal Service, 111th Congress (Mar. 25th, 2009).

EXPLANATION OF AMENDMENTS

An amendment in the nature of a substitute was adopted by unanimous consent. Rather than permitting health care premium payments for current postal retirees to be drawn from the RHBF for eight years, the amendment would authorize the Postal Service's share of contributions for annuitants' health benefits to be paid out of the RHBF for three years, FY 2009 through 2011. The shorter period of relief reduces the projected cost of the bill.

COMMITTEE CONSIDERATION

On Friday, July 10, 2009, the Committee met in open session and favorably ordered H.R. 22 to be reported to the House by voice vote.

ROLLCALL VOTES

No rollcall votes were taken.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations.

H.R. 22 is not applicable to the legislative branch in relation to the terms and conditions of employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report, including the need to provide temporary financial relief to the United States Postal Service.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including permitting payments for the health benefits premiums of current Postal Service retirees to come out of the RHBF rather than postal operating funds, in order to strengthen the short term financial position of the United States Postal Service.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 22. Article I, Section 8, Clauses 7 and 18 of the Constitution of the United States grant the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 22 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 22. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 22 from the Director of the Congressional Budget Office:

JULY 20, 2009.

Hon. EDOLPHUS TOWNS,
Chairman, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 22, the United States Postal Service Financial Relief 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.

H.R. 22—United States Postal Service Financial Relief Act of 2009

Summary: H.R. 22 would authorize the United States Postal Service (USPS) to make payments for retirees' health insurance premiums from the Postal Service Retiree Health Benefits Fund (PSRHBF) for fiscal years 2009 through 2011. Under current law, funds in the PSRHBF are not available for spending until fiscal year 2017.

CBO estimates that enacting the bill would result in on-budget costs of about \$5 billion and off-budget savings of \$2.5 billion over the 2009–2019 period. (Cash flows of the Postal Service 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 H.R. 22 would be about \$2.5 billion over the 2010–2019 period. All of those effects reflect changes in direct spending. H.R. 22 would not affect revenues.

H.R. 22 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 H.R. 22 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	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 (PSRHBf):													
Estimated Budget Authority	2,000	2,200	2,500	0	0	0	0	0	–550	–550	–550	6,700	5,050
Estimated Outlays	2,000	2,200	2,500	0	0	0	0	0	–550	–550	–550	6,700	5,050
Off-budget Effects (Postal Service Fund):													
Estimated Budget Authority	–1,800	–1,100	–1,250	0	0	0	0	0	550	550	550	–4,150	–2,500
Estimated Outlays	–1,800	–1,100	–1,250	0	0	0	0	0	550	550	550	–4,150	–2,500
Total Unified Budget Effects:													
Estimated Budget Authority	200	1,100	1,250	0	0	0	0	0	0	0	0	2,550	2,550
Estimated Outlays	200	1,100	1,250	0	0	0	0	0	0	0	0	2,550	2,550

Note: PSRHBf = Postal Service Retiree Health Benefit Fund.
 Budgetary effects in 2017 through 2019 reflect Postal Service amortization payments to the PSRHBf.

Basis of estimate: CBO assumes that H.R. 22 will be enacted before the end of fiscal year 2009. The bill would authorize the Postal Service, over the 2009–2011 period, to shift payments for retirees’ health insurance premiums from the off-budget Postal Service Fund to the PSRHBF, an on-budget account established by the Postal Accountability and Enhancement Act (Public Law 109–435) to prefund retirees’ health benefits. Under current law, funds in the PSRHBF are not available to the USPS for retirees’ health costs until fiscal year 2017.

CBO estimates that the government’s payments for retirees’ health insurance premiums will be about \$2.0 billion in 2009, \$2.2 billion in 2010, and \$2.5 billion in 2011. Thus, the legislation would increase spending from the on-budget PSRHBF by \$6.7 billion over the 2009–2011 period.

CBO expects that savings to the Postal Service Fund would be less than \$6.7 billion over the same period. We expect that lowering the health care expenses of the Postal Service Fund by \$2 billion or more annually would cause the agency to modify its efforts to reduce other spending near the end of fiscal year 2009 and 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 and is expected to continue to do so.

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 cost-cutting program and aimed to cut \$5.9 billion in 2009 alone. CBO expects that eliminating a \$2 billion expense would lead the agency to alter its cost-reduction program by cutting spending less aggressively than it would without the legislation. Consequently, enacting this legislation would increase net postal outlays relative to current law.

CBO estimates that the increase in net USPS outlays in 2009 would be relatively small because most of the fiscal year will have elapsed by the time the legislation is enacted and because the agency’s financial condition is precarious. We expect that changes to the USPS’s cost-cutting plan would become noticeably larger in 2010 and 2011. We estimate that the increase in net USPS outlays in 2010 and 2011 would be about half of the government’s payments for retirees’ health insurance premiums for those years—about \$1 billion in each year. (In fiscal year 2008, on a cash basis, the Postal Service reported expenses of \$78.6 billion.) On balance, CBO estimates that enacting H.R. 22 would increase spending (for the unified budget) by \$200 million in 2009 and by about \$2.5 billion over the 2009–2011 period.

H.R. 22 would have budgetary effects after 2016, but CBO estimates that those changes would have no net impact on unified budget totals. Public Law 109–435 requires the Postal Service to make annual amortization payments for retirees’ health benefits into the PSRHBF beginning in 2017. Because the bill would reduce payments into the PSRHBF from 2009 to 2011, interest earnings of that fund would be lower. Thus, the annual amortization payments would be higher than expected under current law. Based on information from the Office of Personnel Management, CBO estimates that the increase in payments would be \$550 million in each

year, beginning in 2017. However, because those payments are intragovernmental transfers, increased spending from the Postal Service Fund would be offset by increased receipts into the PSRHBF, so there would be no net effect on the unified budget.

Intergovernmental and private-sector mandates: H.R. 22 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; 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.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

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SUBPART G—INSURANCE AND ANNUITIES

* * * * *

CHAPTER 89—HEALTH INSURANCE

* * * * *

§ 8906. Contributions

(a) * * *

* * * * *

(g)(1) * * *

[(2)(A) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after July 1, 1971, or for a survivor of such an individual or of an individual who died on or after July 1, 1971, while employed by the United States Postal Service, shall through September 30, 2016, be paid by the United States Postal Service, and thereafter shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.]

(2)(A)(i) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States

Postal Service on or after July 1, 1971, or for a survivor of such an individual or of an individual who died on or after July 1, 1971, while employed by the Postal Service, shall—

(I) except as provided in clause (ii), be paid by the Postal Service through September 30, 2016; and

(II) after September 30, 2016, be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the Postal Service.

(ii) The Government contributions payable under this paragraph for a fiscal year which is within the period beginning with fiscal year 2009 and ending with fiscal year 2011 shall be paid in the manner set forth in clause (i)(II) (rather than clause (i)(I)).

* * * * *

§ 8909a. Postal Service Retiree Health [Benefit] Benefits Fund

(a) * * *

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