

## POSTAL SERVICE PAYMENTS TO RETIREMENT FUND

APRIL 11, 1973.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WALDIE, from the Committee on Post Office and Civil Service, submitted the following

### REPORT

[To accompany H.R. 29]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 29) to provide for payments by the Postal Service to the civil service retirement fund for increases in the unfunded liability of the fund due to increases in benefits for Postal Service employees, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

#### AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 8348(f) of title 5, United States Code, is amended by striking out "fiscal year" and inserting in lieu thereof "first fiscal year after the fiscal year".

Sec. 2. Section 8348 of title 5, United States Code, is further amended by adding at the end thereof the following new subsection:

"(h) (1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to active and retired Postal Service officers and employees, and to their survivors, when such increase results from an employee-management agreement under title 39, or any administrative action by the Postal Service taken pursuant to law, which authorizes—

"(A) new or liberalized benefits payable from the Fund, including annuity increases other than increases under section 8340 of this title;

"(B) extension of the coverage of subchapter III of this chapter; or

"(C) increases in pay on which benefits are computed.

"(2) The estimated increase in the unfunded liability, referred to in paragraph (1) of this subsection, shall be determined by the Civil Service Commission. The United States Postal Service shall pay the amount so determined to the Commission in thirty equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the first fiscal year after the fiscal year in which an increase in pay or a new or liberalized benefit becomes effective."

SEC. 3. (a) The last sentence of section 1005(d) of title 39, United States Code, as in effect immediately before the date of enactment of this Act, is repealed.

(b) Section 1005(d) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h)(2) of title 5."

### EXPLANATION OF AMENDMENT

The amendment proposed by the Committee to the text of the bill strikes out all after the enacting clause and inserts in lieu thereof a substitute text which is contained in italic type in the reported bill. The explanation of the provisions of the substitute text is contained in the explanation of the bill set forth herein-after in this report.

### PURPOSE

The purpose of this legislation is to clearly establish the responsibility of the U.S. Postal Service to finance the increases in the unfunded liability of the Civil Service Retirement and Disability Fund, caused by administrative action of the Postal Service, as apart from increases in unfunded liabilities which are incurred by act of Congress.

### SUMMARY

The legislation is prospective and requires the Postal Service to finance, in thirty equal annual installments, any new unfunded Civil Service Retirement Fund liability caused by a Postal Service employee-management agreement or an administrative action which authorizes pay increases or new retirement benefits for postal employees.

Under this legislation the first payment of the thirty annual installments would be made at the end of the first fiscal year following the fiscal year in which the new benefit or pay increase is effective.

Also, this legislation permits the first payment of the thirty annual installments required by 5 U.S.C. 8348(f) to finance an unfunded Civil Service Retirement Fund liability created by statute to be made at the end of the fiscal year after the fiscal year in which the new benefit is effective, rather than at the end of the fiscal year in which the benefit becomes effective, as required under existing law.

In addition, this legislation repeals the requirement in 39 U.S. Code 1005(d) which, in effect, results in a dual payment on the part of the Postal Service for the cost of administration by the Civil Service Commission of the retirement program for postal employees.

### COMMITTEE ACTION

H.R. 29 was ordered reported by the Full Committee by a voice vote.

### BACKGROUND

Section 103 of Public Law 91-93, approved October 20, 1969 (5 U.S.C. 8348(f)), established the policy that any future increases in the unfunded liability of the Civil Service Retirement Fund resulting from new retirement benefits or increases in pay on which retirement benefits are computed shall be fully financed by appropriations in equal installments over 30-year periods.

The underlying purpose of this funding mechanism is not only to preclude further increases in the existing unfunded liability (\$63.5 billion as of June 30, 1972), but to reflect a relatively accurate disclosure of currently accruing retirement costs. In effect, the Congress thereby assumed the responsibility for financing the additional retirement costs created by the enactment of retirement benefits or salary increases over which it has legislative control.

Since the enactment of Public Law 91-93, fifteen separate laws, or actions taken pursuant to law, have increased the unfunded liability by \$14.8 billion for which annual appropriations of \$842 million are required to be made to the Retirement Fund.

The Postal Reorganization Act of 1970, Public Law 91-375, contemplates that the United States Postal Service will be self-supporting after a transitional period. The Act provides for the continued participation of postal employees in the Civil Service Retirement System, and requires the Postal Service to pay to the Retirement Fund, as a matching employer contribution, amounts equal to contributions made by employees. However, the Act contains no provision requiring the Postal Service to be responsible for financing any increases in the unfunded liability of the Retirement Fund which arise from liberalized benefits, such as pay increases, granted by the Postal Service to postal employees.

Since the enactment of the Postal Reorganization Act of 1970, several pay increases have been granted by the Postal Service to postal employees. As a result of these pay increases, the unfunded liability of the Civil Service Retirement Fund was increased by \$1,017 million as of June 30, 1972, and will be increased by an additional \$677.8 million as of June 30, 1973.

The liability of \$1,017 million would normally be financed under existing law in 30 equal annual appropriations of \$62.991 million, with the first installment due on June 30, 1972. The liability of \$677.8 million would be financed in 30 equal annual appropriations of \$41.994 million, with the first installment due on June 30, 1973.

The Civil Service Commission requested appropriations for fiscal years 1972 and 1973 to cover the annual installment payments necessary to amortize the unfunded liability created by the postal pay increases. However, the Subcommittee on Treasury-Postal Service and General Government of the House of Committee on Appropriations denied the Civil Service Commission's request on the basis that the liability of the Postal Service for such retirement costs has not been clearly established.

Subsequent to the action of the Appropriations Subcommittee, the Comptroller General rendered a decision to the Chairman of that Subcommittee, in which he expressed the view that—

The unfunded liability created in the Civil Service Retirement Fund by wage increases effected under the Postal Service is properly for financing from the General Fund of the Treasury in accordance with the provisions of 5 U.S.C. 8348(f).

#### STATEMENT

This legislation will resolve the question of who is to be responsible for increases in the unfunded liability of the Civil Service Retirement

Fund which are attributable to new retirement benefits or pay increases granted to postal employees.

Under the provisions of H.R. 29, the Postal Service will be required to make payments for that portion of any future increase in the unfunded liability of the Civil Service Retirement Fund which results from an employee-management agreement under title 39, United States Code, or any administrative action taken by the Postal Service pursuant to law, which authorizes (1) new or liberalized benefits payable from the Fund (other than cost-of-living annuity increases), (2) extension of the coverage of the retirement law, or (3) increases in pay on which benefits are computed. H.R. 29 will not require the Postal Service to pay for the costs incident to new benefits granted by statute, but applies only to benefits granted by administrative action.

The payments, in amounts determined by the Civil Service Commission, would be made in 30 equal annual installments with interest, with the first payment due at the end of the first fiscal year following the fiscal year in which an increase in retirement benefits or pay becomes effective. Thus, the unfunded liability created by pay or retirement benefits for postal employees will be financed in substantially the same manner as increases in the unfunded liability are financed under 5 U.S.C. 8348 (f), except that the portion attributable to increases in retirement or pay benefits for postal employees will be paid by the Postal Service rather than through direct appropriations.

The situation with respect to the Postal Service is quite unique and results from passage of the Postal Reorganization Act. The Congress now has no control—no oversight whatsoever—with respect to the pay machinery in the Postal Service. Since each future pay raise, negotiated or otherwise granted to employees in the Postal Service, will result in a specific unfunded liability and a new financial drain on the Retirement Fund, the cost of this liability should properly and equitably be borne by the Postal Service.

It is important to note, however, that contrary to a similar legislative proposal submitted by the Civil Service Commission, the provisions of H.R. 29 would operate prospectively only and, therefore, would not require the Postal Service to finance the increases in the unfunded liability of the Retirement Fund which were caused by the pay increases granted to postal employees prior to the date of enactment of this legislation. The effect of these prior pay increases on the unfunded liability of the Retirement Fund was discussed above. The annual payments necessary to amortize such unfunded liability which ordinarily would have been due for fiscal years 1972 (\$62,991 million) and 1973 (\$104,985 million), and the annual payment due for fiscal year 1974 (\$104,985 million), together with the interest on such unpaid amounts (\$11,706 million) will not be the responsibility of the Postal Service under this legislation.

However, it is the view of this Committee that in order to maintain the integrity of the Civil Service Retirement Fund, the total amount of the annual payments due for fiscal years 1972, 1973 and 1974 (\$284,667 million), and the remaining annual payments which will be due as a result of the prior postal pay increases, should be financed from the General Fund of the Treasury in accordance with the provisions of 5 U.S.C. 8348 (f). The above recommendation is consistent with the views expressed by Chairman Dulski in a letter dated April

10, 1972, addressed to the Honorable Tom Steed, Chairman of the Subcommittee on Treasury-Postal Service and General Government. Also, as noted above, the Comptroller General has ruled that such payments from the General Fund of the Treasury would be proper under the existing provisions of law.

#### SECTION ANALYSIS

The first section of the bill amends section 8348 (f) of title 5, United States Code, by striking out the words "fiscal year" and inserting in lieu thereof the words "first fiscal year after the fiscal year".

Under existing law, any unfunded liability that is created by statute is financed by 30 equal annual installments. The first of such installments is due at the end of the fiscal year in which the new or liberalized benefit, extension of coverage, or increase in pay is effective. In most cases, the necessary computations cannot be made until after the end of the fiscal year, thereby resulting in the need to request a supplemental appropriation.

The effect of this amendment is to require the first installment payment to be made at the end of the first fiscal year following the fiscal year in which the new benefits or pay increases are effective. A similar method of payment is prescribed for the Postal Service under section 2 of the bill discussed below.

Section 2 of the bill amends section 8348 of title 5, United States Code, by adding a new subsection (h) at the end thereof. Paragraph (1) of the new subsection (h) provides that the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Civil Service Retirement Fund which is attributable to any benefits payable to active and retired postal employees, and to their survivors, when such increase results from an employee-management agreement under title 39, United States Code, or any administrative action taken by the Postal Service pursuant to law which authorizes—

(1) new or liberalized benefits payable from the Retirement Fund, including annuity increases, other than cost-of-living annuity increases under section 8340 of title 5;

(2) extension of the coverage of subchapter III of chapter 83 of title 5; or

(3) increases in pay on which retirement benefits are computed.

Under this provision, the Postal Service will be liable only for those estimated increases in the unfunded liability of the Retirement Fund which result from employee-management agreements or administrative action taken by the Postal Service. The Postal Service will not be liable for that portion of any increase in the unfunded liability attributable to its employees which results from new or liberalized retirement benefits provided directly by amendment of chapter 83 of title 5, and applicable generally to all persons covered by the Civil Service Retirement System. Such increases will be financed under the provisions of 5 U.S.C. 8348 (f).

Paragraph (2) of the new subsection (h) requires the Civil Service Commission to determine the amount of any estimated increase in the

unfunded liability of the Retirement Fund for which the Postal Service shall be liable pursuant to the provisions of paragraph (1) of subsection (h). The amount determined by the Commission will be paid by the Postal Service to the Commission in thirty equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System. The first payment of any such thirty annual installments will be due at the end of the first fiscal year following the fiscal year in which a pay increase or a new or liberalized retirement benefit becomes effective.

Under this legislation, the Postal Service is not liable for any increases in the unfunded liability caused by pay increases which became effective prior to the date of enactment of this Act.

Section 3(a) of the bill repeals the existing last sentence of section 1005(d) of title 39, which now requires the Postal Service to pay to the Civil Service Commission the cost related to the administration of the retirement program for postal employees. The Civil Service Commission has advised the Committee that this payment by the Postal Service actually results in a dual payment of administration costs, since the current practice is to include such administration costs as a part of the "normal cost" of the Retirement System. The "normal cost" of the system is covered by the contributions made by each agency and employee to the Retirement Fund.

Section 3(b) of the bill is a technical amendment to section 1005(d) of title 39, United States Code, as enacted by the Postal Reorganization Act. The purpose of this amendment is to remove any doubt that the Postal Service is obligated to make the installment payments under the amendment made section 2 of the bill.

#### ESTIMATED COST

Since the Postal Service will be liable only for increases in the unfunded liability which result from retirement benefits or pay increases granted by administrative action after the effective date of the Act, no costs will be incurred by reason of the enactment of this legislation. Costs will be incurred only when administrative action is taken after enactment. However, it may be of interest to note that each 1 percent increase in pay for postal employees creates an unfunded liability of approximately \$130 million, which would be amortized by 30 annual payments of approximately \$8 million.

#### AGENCY REPORTS

By letter dated March 28, 1973, the Chairman of the Civil Service Commission submitted an official recommendation for legislation containing provisions substantially similar to the provisions of H.R. 29. The one major difference between the two legislative proposals is that the Commission's recommended legislation would have been retroactive to May 1, 1971.

The views of the Postal Service on H.R. 29 are set forth in a letter dated March 27, 1973, from Mr. Louis A. Cox, General Counsel of the Postal Service.

By letter dated August 4, 1972, the Comptroller General of the United States furnished the Committee his views on H.R. 10484, a

bill which was considered by the Committee during the 92d Congress and is similar to H.R. 29. The three reports are set forth below.

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., March 28, 1973.

HON. CARL ALBERT,  
*Speaker of the House of Representatives,*  
*Washington, D.C.*

DEAR MR. SPEAKER: The Commission submits for the consideration of the Congress, and recommends prompt favorable action on, the attached legislative proposal which will provide for payments by the United States Postal Service to the Civil Service Retirement and Disability Fund for increases in the unfunded liability of the Fund due to increases in benefits for Postal Service employees.

Public Law 91-93, approved October 20, 1969, was landmark legislation in that it established sound financing of the Civil Service Retirement System. It did so by amending 5 U.S.C. 8334(a) and 8348 to provide for:

(1) increased employee deductions and agency contributions at rates which approximately covered "normal cost";

(2) appropriations from the Treasury of the United States to the Civil Service Retirement and Disability Fund to amortize in 30 equal annual installments increases in the Fund's unfunded liability caused by any new laws which authorize:

(a) new or liberalized retirement benefits, including annuity increases other than cost-of-living increases under 5 U.S.C. 8340,

(b) extension of retirement coverage to new groups of employees, or

(c) increases in pay on which retirement benefits are computed; and

(3) transfer at the end of each fiscal year to the Civil Service Retirement and Disability Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, amounts equivalent to:

(a) interest on unfunded liability attributable to prior laws, and

(b) benefits based on military service.

In order to soften the budgetary impact of the transfer of funds described in item three (3) above, the following percentages of such amounts were required to be transferred each fiscal year: 10 percent for 1971; 20 percent for 1972; 30 percent for 1973; 40 percent for 1974; and continuing to increase by 10 percent each year until 100 percent of such amounts must be transferred for fiscal year 1980 and for each fiscal year thereafter.

Public Law 91-375, approved August 12, 1970, known as the Postal Reorganization Act, revised and reenacted title 39 of the United States Code to provide for the establishment of the independent United States Postal Service. A basic concept of the Postal Reorganization Act was that the United States Postal Service was to eventually become self-supporting. However, following its enactment, a question was raised as to whether the Postal Service or the Treasury of the United States was to bear the cost of increases in the unfunded liability of the Civil Service Retirement and Disability Fund created as a

result of the negotiated agreements between the Postal Service and the Postal Unions for increased pay and retirement benefits. The purpose of the attached legislative proposal is to resolve this question in a manner which is consistent with both the self-supporting concept on which the United States Postal Service was established and the sound financing concept on which the Civil Service Retirement System is currently based.

This proposed draft legislation would require the independent United States Postal Service to make payments for that portion of a future increase in the unfunded liability of the Civil Service Retirement and Disability Fund attributable to it which results from an employee-management agreement under title 39, United States Code, or any administrative action taken pursuant to law, which authorizes: (1) new or liberalized benefits payable from the retirement fund (other than cost-of-living annuity increases), (2) extension of the coverage of the retirement law, or (3) increases in pay on which benefits are computed. These payments, in amounts determined by the Civil Service Commission, would be made in 30 equal annual installments, with the first payment due at the end of the fiscal year after the one in which an increase in retirement or pay benefits is effective. In short, amortization of the increase in the unfunded liability of the Civil Service Retirement and Disability Fund would continue as now, except that the portion attributable to an increase in retirement or pay benefits in the United States Postal Service would be paid by the Postal Service, rather than through direct appropriations.

Until the future benefits described in the draft bill are set by employee-management agreement or by administrative action taken pursuant to law, their cost, of course, cannot be determined. However, certain pay increases have already been agreed to by the United States Postal Service and its employees. As a result of these pay increases, the unfunded liability of the Civil Service Retirement and Disability Fund was increased by \$1,017 million as of June 30, 1972, and will be increased by an additional \$677.8 million as of June 30, 1973. The liability of \$1,017 million would normally be financed under present law in 30 equal annual appropriations of \$62.991 million, with the first installment being due June 30, 1972; the liability of \$677.8 million would normally be financed in 30 equal annual appropriations of \$41.994 million, with the first installment being due June 30, 1973. The 92nd Congress, however, deleted these appropriations from the Commission's appropriations for fiscal years 1972 and 1973, pending action on a bill identical to the current proposal in the 92nd Congress—H.R. 10484, which failed of enactment. The 1974 Budget proposes that the appropriation to the Civil Service Retirement and Disability Fund for FY 1974 include these FY 1972 and FY 1973 installment payments to be made available to the Fund from the Postal Service Fund. The aggregate amount for this FY 1974 payment from the Postal Service, including interest for delayed payment, is \$284,667,000. The Commission strongly supports this appropriation request as wholly consistent with the purposes of the proposed clarifying draft legislation.

If this proposal is enacted in fiscal year 1973, but made effective on May 1, 1971, the United States Postal Service would be required to

finance the \$1,017 million liability in 30 equal annual payments of \$66.141 million each, with the first installment being due June 30, 1973; the \$677.8 million liability would be financed in 30 equal annual payments of \$44.092 million each, with the first installment being due June 30, 1974. The annual installments required to amortize the increase in unfunded liability under the proposed legislation are slightly larger than under the present law because the first installment is due not at the end of the fiscal year in which the increase in unfunded liability occurred, but at the end of the first fiscal year after the fiscal year in which the increase occurred.

The Office of Management and Budget advises that there would be no objection from the standpoint of the Administration's program to the submission of this proposal, as enactment of the proposed bill would be in accord with the program of the President.

By direction of the Commission:

Sincerely, yours,

ROBERT HAMPTON,  
*Chairman.*

---

U.S. POSTAL SERVICE,  
LAW DEPARTMENT,  
Washington, D.C., March 27, 1973.

HON. THADDEUS J. DULSKI,  
*Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 29, "To provide for payments by the Postal Service to the Civil Service Retirement Fund for increases in the unfunded liability of the Fund due to increases in benefits for Postal Service employees, and for other purposes."

Enactment of this proposed legislation will involve enormous costs that will have to be passed on in the future to postal ratepayers. According to the current estimates provided by the Civil Service Commission, each one percent of a pay increase causes an unfunded liability in the Civil Service Retirement and Disability Fund of approximately \$8 million each year for 30 years. Thus, for example, if postal employees receive a 5% pay increase the bill would require the Postal Service to pay \$40 million each year for the next 30 years. In addition, a similar liability would accrue with each subsequent pay increase leading to a cumulative annual liability of a tremendous magnitude. At a time when certain mailers are calling for greatly increased postal subsidies, and when others are advocating that the Postal Service expand certain services notwithstanding costs, the enactment of H.R. 29 will create financial pressures making it more difficult for the Postal Service to improve service without large rate increases.

This legislation has been proposed on the ground that the Postal Service should operate on a financially self-sufficient basis, meeting its operating costs out of its revenues and not out of hidden subsidies. After careful consideration—and in full awareness of the financial burdens enactment of the bill will impose—the Postal Service has concluded that it is proper, as a matter of principle, for these costs to be imposed on postal ratepayers rather than the taxpayers.

Properly understood, the principle of postal self-sufficiency calls for those who use postal services to bear the costs of those services. The principle does *not*, however, call for present postal customers to bear the burden of costs that are not reasonably related to the performance of present services. Payments for increases in unfunded liability resulting from the pay increases of past years are properly attributed to past postal operations. Thus the principle of postal self-sufficiency would not justify imposing on present or future postal customers the financial burden of unfunded retirement liabilities attributable to pay increases granted during Fiscal Years 1972 and 1973.

It is clear that requiring the Postal Service to reimburse the Civil Service Retirement and Disability Fund for increases in unfunded liability constitutes a change in the existing law governing responsibility for such increases. The Comptroller General held, in a letter to Congressman Steed dated June 20, 1972, (copy attached) that unfunded liabilities resulting from postal pay increases are properly financed from the general fund of the Treasury as authorized by 5 U.S.C. § 8348(f). If a change in law is to be made, it would be inequitable for it to impose burdens on postal ratepayers retrospectively.

In our view, H.R. 29 as introduced would not have retrospective effect. As we understand it, the bill speaks only prospectively, directing that the Postal Service—

“ . . . shall be liable for that portion of any estimated increase in the unfunded liability . . . which is attributable to any benefits payable . . . to active and retired Postal Service officers and employees, and to their survivors, when such increase results from an employee-management agreement under title 39, or any administrative action by the Postal Service taken pursuant to law, which authorizes . . . increases in pay on which benefits are computed.” (H.R. 29, § 1).

This reading of H.R. 29 is in keeping with the principle of statutory construction that—

“ . . . in the absence of a constitutional or a general statutory provision, or a provision in the statute itself relating to the effective date, the statute will take effect from the day of its passage or enactment; that is, from the date the last act necessary to complete the legislative process is performed.” (Crawford, *The Construction of Statutes*, § 106, p. 152).

Only on the basis of such an understanding can we say we would have no objection to the enactment of this bill.

In his letter of January 26, 1973, to the Postmaster General explaining decisions made with regard to the postal budget, the Director of the Office of Management and Budget stated that his recommendation that the Postal Service pay the unfunded liability in the Civil Service Retirement Fund would “facilitate further the transition of the Postal Service to independent status.” While enactment of H.R. 29 would be consistent with the statutory independence of the Postal Service under the Postal Reorganization Act, the very substantial additional financial responsibilities it would create underscore the need for effective and vigilant postal management. We therefore believe it would be appropriate for Congress, in enacting this bill, to correct the two principal defects in the Postal Reorganization Act that stand in

the way of effective use of the Service's independent operating power—namely, the provisions in section 1003(a) of title 39 limiting postal salaries to Level I of the Executive Pay Schedule and in section 409(d) of title 39 preventing the Postal Service from conducting its own litigation in court without the consent of the Attorney General. We therefore recommend that amendments eliminating these restrictions be added to H.R. 29.

Finally, in order to make the wording of the bill technically correct, it is recommended that section 1 of H.R. 29 be amended to delete subparagraphs (A) and (B) of proposed section 8348(h) (1). The Postal Reorganization Act does not authorize the Postal Service, either through collective bargaining or by administrative action, to grant new or liberalized benefits payable from the Civil Service Retirement and Disability Fund, or to extend the coverage of the Civil Service retirement laws. Accordingly, subparagraphs (A) and (B) imply a non-existent power and should be deleted. Upon deletion of these subparagraphs the dash following the word "authorizes" in line 5, page 2, should be deleted, as well as the "(C)" in subparagraph (C).

Sincerely,

LOUIS A. COX,  
*General Counsel.*

---

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., August 4, 1972.*

B-130441.

HON. THADDEUS J. DULSKI,  
*Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request of July 5, 1972, for our report on H.R. 10484, "A BILL To provide for payments by the Postal Service to the Civil Service Retirement Fund for increases in the unfunded liability of the Fund due to increases in benefits for Postal Service employees, and for other purposes.

Section 8348(f) of title 5, United States Code, provides that any statute which authorizes new or liberalized benefits payable from the Civil Service Retirement and Disability Fund ("the Fund"); extensions of coverage of the Civil Service retirement system or increases in pay on which retirement benefits are computed, is deemed to authorize appropriations to the Fund to finance the unfunded liability created thereby.

Under the Postal Reorganization Act, approved August 12, 1970, Pub. L. 91-375, 84 Stat. 719, which revised and reenacted title 39, United States Code, officers and employees of the Postal Service (other than the Governors) are covered by the Civil Service retirement system. 39 U.S.C. 1005(d). In addition, the Postal Service is granted authority, *inter alia*, to fix the compensation and benefits of its officers and employees, 39 U.S.C. 1003(a), through collective bargaining agreements, where applicable. 39 U.S.C. 1201-1209.

If enacted, H.R. 10484 would make the Postal Service liable for any estimated increase in the unfunded liability of the Fund attributable to any employee-management agreement effected under title 39 or any administrative action taken pursuant to law which authorizes—

new or liberalized benefits payable from the Fund, including annuity increases other than cost-of-living adjustments under 5 U.S.C. 8340;

extensions of the coverage of the Civil Service Retirement System; or

increases in pay on which benefits are computed.

We might point out that the bill would not affect the unfunded liability created by the 8 percent postal wage increase specifically mandated by section 9(a) of the Postal Reorganization Act (84 Stat. 784), which is presently being financed pursuant to 5 U.S.C. 8348(f); nor would the bill charge to the Postal Service the portion of unfunded liability attributable to its employees arising from increases or liberalizations in retirement benefits provided directly by amendment of chapter 83 of title 5 and applicable generally to all persons covered by the Civil Service retirement system. It is assumed that the term "or any administrative action taken pursuant to law" on page 2, line 4 of the bill is intended to apply only to administrative actions taken by the Postal Service, and would not embrace other possible nonlegislative actions of general applicability which might increase unfunded liability, e.g., by the President or by the Civil Service Commission. If this is the case, it is suggested that the above-quoted language be clarified by inserting the phrase "by the Postal Service" after "taken" and before "pursuant".

The purpose of H.R. 10484 is stated, in part, as follows:

"The bill, as introduced, seeks to make the Postal Service liable—as is the Government generally—for its share of any increase in the unfunded liability of the retirement fund.

"Congress must provide funding for any increased liability which it authorizes for the rest of Government, and this bill simply seeks to fix without question the responsibility for such additional funding which is incurred by an agency which is outside the control of Congress.

"There was no provision in the postal reform legislation for this liability, and the Congress no longer has any control over pay or benefits of postal personnel although the employees continue to come under the civil service retirement system.

"Public Law 91-93 [which enacted, *inter alia*, 5 U.S.C. 8348(f)] set the policy for stabilizing the retirement fund, including authorizing appropriations to cover any future increases within Government in unfunded liability, to be paid in 30 equal annual installments.

"The new postal service is an independent corporation, formed to operate without general subsidy, and therefore provision needs to be made in law for the independent Postal Service to reimburse the retirement fund for any unfunded liabilities which it incurs." [117 CONG. REC. H. 8164 (daily ed. Aug. 6, 1971)]

Until the future benefits described in H.R. 10484 are set by employee-management agreement or by administrative action taken pursuant to law, their cost cannot be determined. However, according to calculations by the Civil Service Commission, postal wage increases already accomplished administratively represent increases in unfunded retirement liability of \$1.107 million effective June 30, 1972, and of an additional \$897.4 million effective June 30, 1973.

In order to finance the liability of \$1,017 million in 30 equal annual installments (as provided in 5 U.S.C. 8348(f)) each annual installment will amount to \$62,991 million with the first installment due on June 30, 1972; in order to finance the liability of \$897.4 million each annual installment will amount to \$55,594 million with the first installment being due June 30, 1973.

We share the conclusion that there is no provision of existing law which holds the Postal Service liable for these payments. As a result, the unfunded liability thus created apparently would be either financed pursuant to 5 U.S.C. 8348(f) in its present form, or remain without financing. While we believe that application of 5 U.S.C. 8348(f) is technically permissible, we recognize that this alternative would constitute a substantial subsidy to the Postal Service, at odds with the concept of the Postal Service as a self-sustaining entity. On the other hand, to allow this unfunded liability to continue unabated would seriously threaten the integrity of the Fund—the specific danger which 5 U.S.C. 8348 was enacted to prevent.

We believe that the approach set forth in the bill vindicates the policies of the Postal Reorganization Act, while preserving the integrity of the Fund. Accordingly, we strongly favor enactment of H.R. 10484.

Sincerely yours,

LEWIS B. STAATS,  
*Comptroller General of the United States.*

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 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) :

#### SECTION 8348 OF TITLE 5, UNITED STATES CODE

#### § 8348. Civil Service Retirement and Disability Fund

\* \* \* \* \*

(f) Any statute which authorizes—

(1) new or liberalized benefits payable from the Fund, including annuity increases other than under section 8340 of this title;

(2) extension of the coverage of this subchapter to new groups of employees; or

(3) increases in pay on which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the Civil Service Retirement System and with the first payment thereof due as of the end of the *first fiscal year after the fiscal year* in which each new or liberalized benefit, extension of coverage, or increase in pay is effective.

\* \* \* \* \*

(h)(1) *Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to active and retired Postal Service officers and employees, and to their survivors, when such increase results from an employee-management agreement under title 39, or any administrative action by the Postal Service taken pursuant to law, which authorizes—*

(A) *new or liberalized benefits payable from the Fund, including annuity increases other than increases under section 8340 of this title;*

(B) *extension of the coverage of subchapter III of this chapter; or*

(C) *increase in pay on which benefits are computed.*

(2) *The estimated increase in the unfunded liability, referred to in paragraph (1) of this subsection, shall be determined by the Civil Service Commission. The United States Postal Service shall pay the amount so determined to the Commission in thirty equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the first fiscal year after the fiscal year in which an increase in pay or a new or liberalized benefit becomes effective.*

---

## SECTION 1005 OF TITLE 39, UNITED STATES CODE

### §1005. Applicability of laws relating to Federal employees

(a) \* \* \*

\* \* \* \* \*

(d) Officers and employees of the Postal Service (other than the Governors) shall be covered by chapter 83 of title 5 relating to civil service retirement. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in such chapter. [The Postal Service, upon request of the Civil Service Commission, but not less frequently than annually, shall pay to the Civil Service Commission the costs reasonably related to the administration of Fund activities for officers and employees of the Postal Service.] *The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h)(2) of title 5.*