



# **First-Class to Nowhere: Congress's Second-Rate Postal Reform Bill**

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By Kristina M. Rasmussen

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### **Introduction**

At the outset of 2005, the National Taxpayers Union urged Congress to boldly address the need for fundamental change at the U.S. Postal Service (USPS).<sup>1</sup> Greater financial transparency, cost control, and fair competition were among the essential demands of pro-taxpayer postal reformers,<sup>2</sup> but Congress has yet again failed to deliver on these principles. Instead, the tepid response from Capitol Hill was H.R. 22 and S. 662, the "Postal Accountability and Enhancement Act."

Far from launching a comprehensive reform effort designed to bring the nation's ailing federal postal monopoly into the 21<sup>st</sup> century, the legislation merely offers a recycled "grab-bag" of reorganization measures. In large part, the bills try (but fail) to deal with the headaches created by the last misguided attempt to improve the Postal Service in 2003.<sup>3</sup>

Like many past proposals, the current twin bills offer nothing to taxpayers and likewise fall miserably short of pushing the Postal Service's \$69 billion operation<sup>4</sup> toward a competitive and privatized system. It has been clear for some time that this bloated and wasteful entity needs to be cut off from the federal piggy bank in order to adapt to the fast-changing U.S. economy, but the so-called Postal Accountability and Enhancement Act won't prevent the Postal Service from pushing into new industries using its subsidized and tax-advantaged status.

### **Background**

The need for a major transformation of America's postal system is a well-accepted fact among policymakers. The model produced by the last major postal overhaul in 1970 has created a mammoth organization that is ill-suited to meet the demands of the 21<sup>st</sup> century. A fatal mixture of over \$90 billion in debt and unfunded obligations combined with a poor financial outlook<sup>5</sup> has led many to liken the future trajectory of the Postal Service to a "death spiral."<sup>6</sup> In an attempt to address deep-seated problems within USPS, President George W. Bush appointed a commission in 2002 to review and suggest improvements for the Postal Service.

The President's Commission on the United States Postal Service reported its reform recommendations in July 2003,<sup>7</sup> many of which earned NTU's qualified support.<sup>8</sup> While the Commission ultimately rejected postal privatization, the panel did offer specific suggestions that would have genuinely addressed cost concerns, such as disposing of "low activity" Post Offices.

Unfortunately, legislators ignored many of the Commission's recommendations and proceeded to craft the half-hearted postal reform bills now grinding their way toward enactment. Unwillingness by Congress to confront ingrained interests and make difficult but necessary choices has created legislation that does not truly serve the needs of taxpayers and postal consumers.

### **No Privatization Here**

USPS has a dismal performance record when it comes to expanding into new product ventures,<sup>9</sup> but it continues this practice by subsidizing losses with profits from its First-Class mailing monopoly. Private competitors have routinely cried foul at this predatory activity, but H.R. 22 and S. 662 attempt to deflect this criticism by cloaking the USPS in the rhetoric of private enterprise. Proponents of these bills claim that they will encourage USPS to act "more like a business" by requiring the Postal Service to meet certain consumer service standards and to file financial reports similar to those submitted to the Securities and Exchange Commission by publicly-traded corporations.<sup>10</sup> Even so, the incentives for acting like a business will never be compelling enough when the Postal Service can always fall back on its monopolistic cushion.

The fact of the matter is that the Postal Service would be facing bankruptcy without the assistance of the federal government. USPS does not have to pay most taxes and is exempt from most of the regulations that burden truly-commercial firms. Even so, these businesses are able to operate more efficiently and more profitably than the Postal Service. USPS was created at a time when no private entity was willing or able to deliver mail across a developing nation. Now that we have capable private organizations eager to do so, USPS should be contracting in size and mission. Legislation that encourages a government monopoly to instead expand into new and competitive markets is misguided, to say the least.

### **Laboring Mightily**

The labor and operating cost provisions of this legislation are undoubtedly the most troublesome, primarily because they make no serious effort to establish fiscal control. Currently, the average USPS employee earns 25 percent more than his or her private-sector counterpart and has access to one of the most attractive benefit packages in the country.<sup>11</sup> Despite this high level of remuneration, USPS productivity has risen by a paltry 11 percent over the last 30 years<sup>12</sup> during a period in which technological assistance has grown astronomically. Compare this with 17 percent growth in non-farm business productivity from 2000-2004<sup>13</sup> and it is easy to see that workforce reform is the key to any real postal reform.

H.R. 22 and S. 662 are almost completely silent on common-sense measures like more efficiently deploying or reducing postal employees and closing unnecessary locations (perhaps using the successful commission-style process for shutting down obsolete military bases). Given the propensity of politicians for naming local Post Offices (an estimated 12 percent of all public laws passed in the 107<sup>th</sup> Congress),<sup>14</sup> it is no wonder Members decided not to include that option in either of these bills.

In fact, a recent report published by the Congressional Budget Office (CBO) found that S. 662 would have little to no impact on improving USPS's long-term financial future. CBO Director Douglas Holtz-Eakin stated in a letter introducing the report that "the overall effect of

the bill on USPS's total costs would be small – a reduction of 1 percent over the next 25 years.”<sup>15</sup> Furthermore, Holtz-Eakin noted that costs saving measures in the bill are at risk of being overwhelmed by a requirement in S. 662 to pre-fund retiree health care benefits, leading to a “net increase in the Postal Service's total costs starting in 2028.”

As if the lack of cost control was not a big enough cop-out to organized labor on its own, the significant influence of unions in the drafting of this legislation shows up even more clearly in promises not to modernize collective bargaining practices. Worse, H.R. 22 actually guarantees labor a seat on the Postal Service Board of Governors. Giving unions a bigger role in the day-to-day management of USPS will only exacerbate existing problems and virtually ensures the defeat of any needed reforms.

### **“Pricing Flexibility” Bends the Marketplace**

Without attempting to keep expenses in line, the bills add further insult to injury by giving USPS *more* pricing flexibility. H.R. 22 and S. 662 develop a new ratemaking system where “competitive” postal products (i.e., those offered by private providers such as parcel delivery) could be priced at any level as long as they cover their own overhead. Costs charged to consumers for “market-dominant” products (i.e., monopolistic goods and services such as First-Class Mail) would not be allowed to grow any faster than the standard Consumer Price Index (CPI). However, the bills allow for this cap to be broken whenever “reasonable and equitable” or during “unexpected and extraordinary circumstances.”

While trumpeted as a tool that will allow USPS to become more responsive to the market, these provisions open up the ratemaking process to severe abuse. Coming to consensus on exactly what “reasonable and equitable” and “unexpected and extraordinary circumstances” are could prove nearly impossible. Some have suggested that terrorist attacks are valid reasons for increases, while others have argued that an unexpected, slight, market downturn would be justification enough to hike rates above the CPI. This legislation essentially gives a free pass to USPS to raise rates however it sees fit, without the corresponding requirement for cost control.

### **Benefit Blame Game**

Other deceptive provisions in H.R. 22 and S. 662 relate to certain forms of non-salary postal employee compensation. Considering over half of the Postal Service's \$92 billion in debt and unfunded obligations are due to bloated benefits alone,<sup>16</sup> one would hope that any reform proposal would contend with this ominously-circling albatross.

Instead of dealing directly and honestly with the high benefit costs that have long plagued USPS, this legislation shuffles payment responsibility around without really lowering expenditures. This is particularly true for the \$27 billion of military service pension credits owed by the USPS to its veteran employees.<sup>17</sup> In a reckless game of government hot potato, these bills toss responsibility for military pensions right back into the hands of taxpayers.

In order to give at least the appearance of addressing the federal budget deficit in 2003, Congress passed the Postal Civil Service Retirement Funding Reform Act of 2003 (P.L. 108-18), which shifted the \$27 billion military pension obligation from the U.S. Treasury to USPS. Because the USPS is an independent agency, its net expenditures are considered to be “off-

budget” and are therefore not included in the budget deficit/surplus measurement.<sup>18</sup> Transferring the military pension burden to the USPS had the apparent effect of shrinking the budget deficit by \$27 billion – not an insignificant amount, given that CBO projected a \$567 billion “on-budget” baseline deficit for 2004.<sup>19</sup>

In a direct turn-around, H.R. 22 and S. 662 would hand back this \$27 billion obligation to the U.S. Treasury, thereby increasing the deficit once again. Regardless of how the money is accounted for, this legislation does not change the fact that taxpayers will eventually have to spend huge sums of money on retirement benefits for USPS employees. Haggling over “who pays” doesn’t really address the core problem of unfunded liabilities. It is, in a sense, robbing Peter to pay Paul.

### **“Free Money” and the Escrow Account**

H.R. 22 and S. 662 also have a misguided approach toward the Postal Service’s recent escrow account debacle. In 2002, the Office of Personnel Management made the startling announcement that USPS was over-funding its liability to the Civil Service Retirement and Disability Fund to the tune of \$71 billion. In 2003, USPS was allowed to reduce its annual payments to the Fund, and the “savings” were placed in an escrow account (estimated to reach \$43.2 billion by 2015).<sup>20</sup> Politicians are now eagerly eyeing this rapidly-filling pot and contemplating what to do with the “free” money.

The Bush Administration and some Members of Congress have suggested that this money be set aside to pre-fund retiree health benefits. That seems responsible, but the Congressional Research Service estimates that this would require a 5.4 percent increase in postal rates with no operational benefit.<sup>21</sup> On the other hand, the House bill allows USPS to divert \$6 billion of the escrow money toward operating expenses. Theoretically, this would allow USPS to delay a 2-cent rate rise set for 2006, but in reality it does little more than to temporarily stave off financial ruin.

Instead of the unfair approaches suggested by H.R. 22 and USPS, these extra funds should be returned to the rightful owners: taxpayers. Since this “free money” was collected in the form of rates paid by the consumer, the fairest, most logical thing to do would be to stop charging the fees and lower rates accordingly. Sadly, few politicians can resist the urge to collect taxes the general public already accepts, and this situation is no different.

### **“Cost and Benefit” Analysis**

For all the significant defects of H.R. 22 and S. 662, perhaps the most ironic is that taxpayers will cover the tab for the very proposals that have turned postal reform from a boon into a bust. Implementing this legislation represents a total net cost of between \$4 and \$6 billion to the unified budget between 2006 and 2015.<sup>22</sup> This price tag clearly illustrates that a postal reform effort that costs taxpayers billions of dollars instead of saving them money is faulty.

There are a few bright spots in the recent legislation, including provisions to make the USPS more transparent and its Board of Governors more responsive. The bills also encourage (but do not require) older, injured workers to choose retirement over costly workers’ compensation. Even with these small advantages, the bad obviously outweighs the good.

## **Recent Developments**

On July 26, 2005, the House of Representatives did a great injustice to taxpayers everywhere by passing H.R. 22 on a vote of 410-20. The overwhelming support for this bill indicates the lack of Congressional will to make necessary reforms to the Postal Service. This point was reinforced by the fact that the House rejected three amendments offered during floor deliberations that would have addressed the most egregious components of the bill mentioned in this brief.

Rep. Mike Pence (R-IN) offered an amendment to remove the submissive requirement that the first vacant spot on the USPS Board of Governors be filled by a union-supported individual, but the proposal was rejected by a vote of 82-345. Also defeated was an amendment authored by Rep. Jeb Hensarling (R-TX) to prevent a \$27 billion taxpayer bailout of the USPS by keeping the responsibility for military pension benefits with the Postal Service. Unfortunately, this taxpayer-friendly amendment went down by way of a voice vote.

Rep. Jeff Flake's (R-AZ) amendment would have furthered postal privatization efforts and produced domestic data to measure the potential for wider-scale private sector alternatives to the postal bureaucracy. His proposal would have set up five-year "pilot" programs in 20 communities, in which private groups (businesses, non-profits, and labor unions) could competitively bid for the right to deliver mail and offer other services under the supervision of a local Postal Performance Review Board. This groundbreaking provision would have finally allowed Congress to test the weak justifications given for the USPS monopoly, but failed on a vote of 51-379.

All eyes now turn to the Senate, where S. 662 was favorably reported out of committee on June 22, 2005. While the Senate version is slightly preferable over the House bill, it still remains an inherently unsound proposal. Paradoxically, the very person who initially pushed for reform may ultimately stem its advance. The President has signaled that H.R. 22 and S. 662 are too modest in scope and violate a requirement for budget neutral legislation. The White House steadfastly opposes any attempts to transfer military pension responsibilities back to the Treasury or to allow USPS to use escrow funds to delay a rate increase, as both are being used as contrivances to help hide and shrink the budget deficit. Either a Senate delay or a Presidential veto is needed to prevent delivery of this atrocious legislative package to taxpayers.

## **Conclusion**

Although H.R. 22 and S. 662 continue to evolve as various interested parties weigh in, there can be no doubt that these bills are rotten to the core. They fail to address basic reform concerns and will not be salvaged by marginal shifts. At a time when countries around the world are rapidly moving toward the advantages of postal privatization,<sup>23</sup> America is lagging behind. Taxpayers deserve first-rate postal reform, and these weak bills should be returned to sender.

### About the Author

Kristina M. Rasmussen is Government Affairs Manager for the National Taxpayers Union, a non-profit, non-partisan organization founded in 1969 to work for lower taxes, smaller government, and economic freedom at all levels. For further information, visit [www.ntu.org](http://www.ntu.org).

### Notes

<sup>1</sup> National Taxpayers Union, “An Open Letter to Congress: It’s Time to Seriously Overhaul the U.S. Postal Service, Not Tweak It,” January 24, 2005, [http://www.ntu.org/main/letters\\_detail.php?letter\\_id=244](http://www.ntu.org/main/letters_detail.php?letter_id=244).

<sup>2</sup> Consumer Postal Council News Release, “Policy Leaders Endorse Six Essential Elements of Effective Postal Reform,” April 5, 2005, <http://www.postalconsumers.org/content/040505.asp>.

<sup>3</sup> Public Law 108-18, “Postal Civil Service Retirement Funding Reform Act 2003.”

<sup>4</sup> United States Postal Service, “Postal Facts 2005,” <http://www.usps.com/communications/organization/postalfacts2005.pdf>.

<sup>5</sup> President’s Commission on the United States Postal Service, “Embracing the Future: Making Tough Choices to Preserve Universal Mail Service,” July 31, 2003, <http://www.treas.gov/offices/domestic-finance/usps/pdf/freport.pdf>.

<sup>6</sup> Rep. Tom Davis (R-VA), “Opening Statement, Committee on Government Reform Hearing on H.R. 22,” April 13, 2005.

<sup>7</sup> President’s Commission on the United States Postal Service, “Embracing the Future: Making Tough Choices to Preserve Universal Mail Service,” <http://www.treas.gov/offices/domestic-finance/usps/pdf/freport.pdf>.

<sup>8</sup> National Taxpayers Union, Letter to Senate Governmental Affairs Committee Chairwoman Susan Collins (R-ME) regarding the final report of the President’s Commission on the United States Postal Service (USPS), October 28, 2003, [http://www.ntu.org/main/letters\\_detail.php?letter\\_id=141](http://www.ntu.org/main/letters_detail.php?letter_id=141).

<sup>9</sup> Congressional Research Service, “Postal Reform,” Updated June 27, 2005, CRS Report #RL32346.

<sup>10</sup> Congressional Research Service, “Postal Reform,” Updated June 27, 2005, CRS Report #RL32346.

<sup>11</sup> Sam Ryan, “Privatize This,” *National Review Online*, March 7, 2005, <http://www.nationalreview.com/comment/ryan200503070740.asp>.

<sup>12</sup> Congressional Research Service, “Postal Reform,” Updated June 27, 2005, CRS Report #RL32346.

<sup>13</sup> Arnold Kling, “The Good News About Productivity,” *Tech Central Station*, July 8, 2004, <http://www.techcentralstation.com/070804D.html>.

<sup>14</sup> Congressional Research Service, “Naming Post Offices Through Legislation,” July 3, 2003, CRS Report #RS21562.

<sup>15</sup> Congressional Budget Office, Letter to Senate Committee on the Budget Chairman Judd Gregg (R-NH) regarding the long-term effects of S. 662 on USPS’s financial condition, September 1, 2005.

<sup>16</sup> President’s Commission on the United States Postal Service, “Embracing the Future: Making Tough Choices to Preserve Universal Mail Service,” <http://www.treas.gov/offices/domestic-finance/usps/pdf/freport.pdf>.

<sup>17</sup> Congressional Research Service, “Pension Issues Cloud Postal Reform Debate,” Updated June 23, 2005, CRS Report #IB10104.

<sup>18</sup> Congressional Budget Office, “Cost Estimate/S. 662,” <http://www.cbo.gov/ftpdocs/65xx/doc6510/s662.pdf>.

<sup>19</sup> Congressional Budget Office, “Current Budget Estimates,” <http://www.cbo.gov/showdoc.cfm?index=1944&sequence=0>.

<sup>20</sup> Congressional Research Service, “Postal Reform,” Updated June 27, 2005, CRS Report #RL32346.

<sup>21</sup> Congressional Research Service, “Postal Reform,” Updated June 27, 2005, CRS Report #RL32346.

<sup>22</sup> Congressional Budget Office, “Cost Estimate/H.R. 22,” <http://www.cbo.gov/showdoc.cfm?index=6307&sequence=0>.

<sup>23</sup> Don Soifer, “America Lags in Postal Reform,” *Human Events Online*, December 14, 2004, available at <http://www.postalconsumers.org/content/041216.asp>.