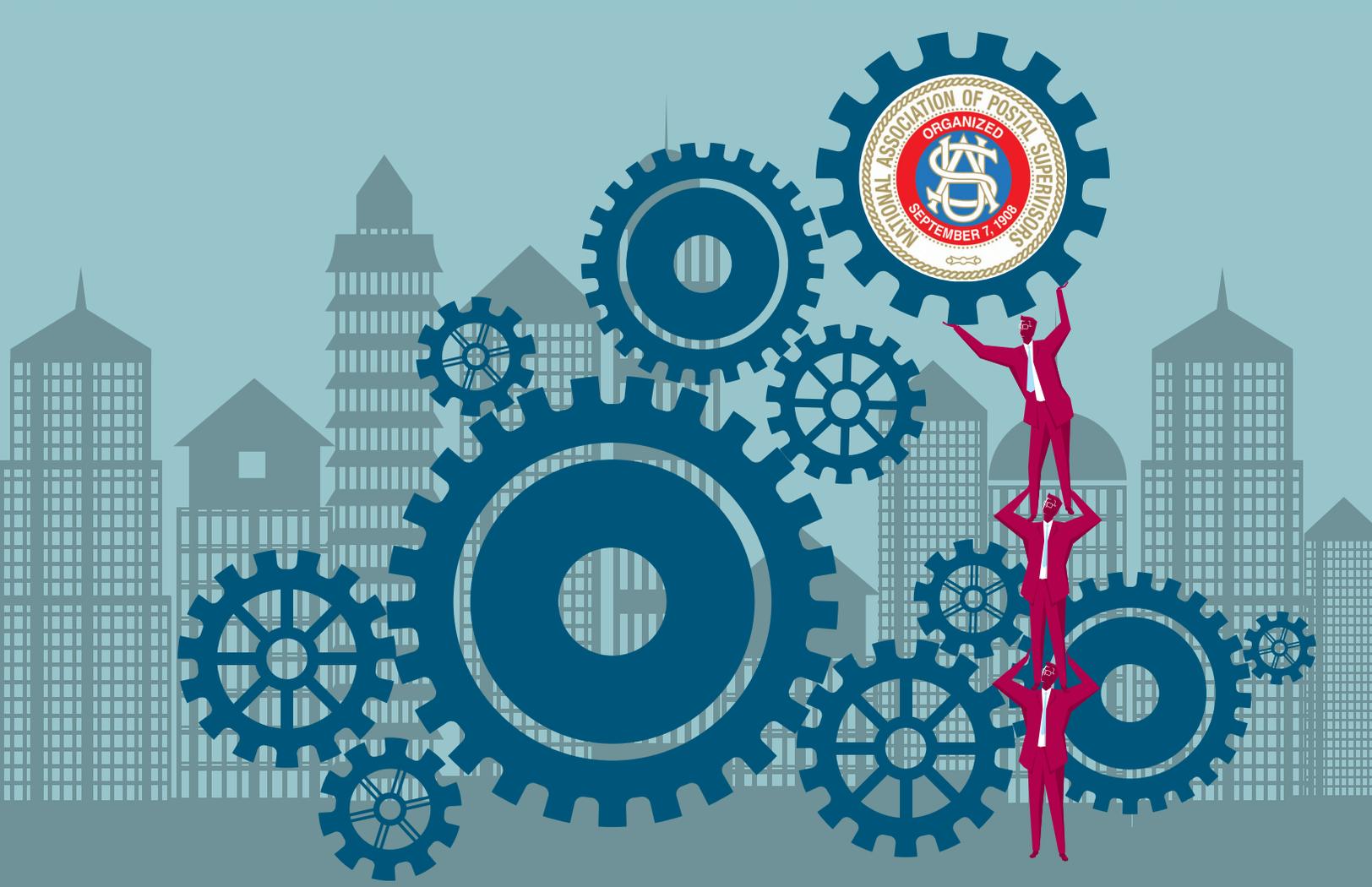
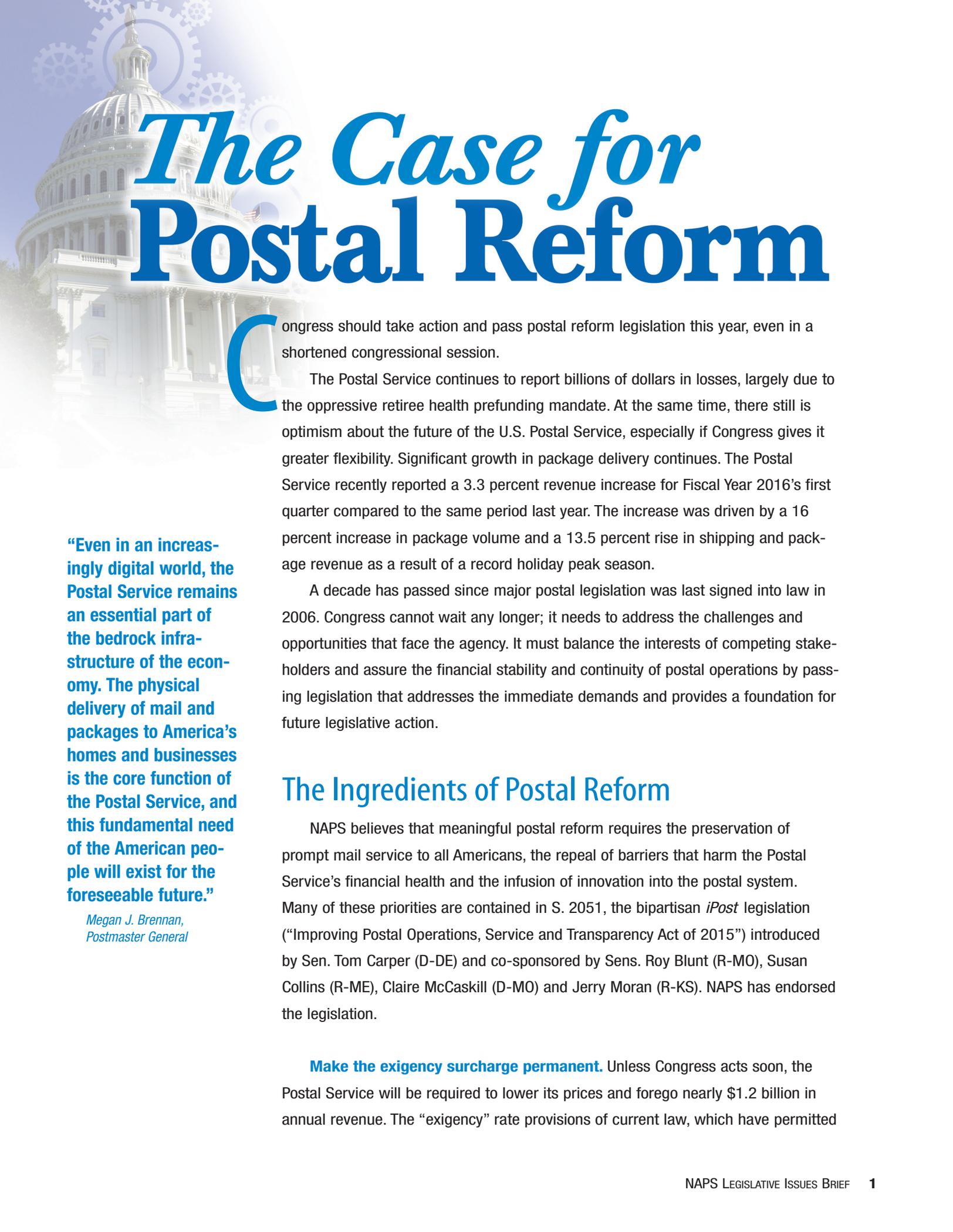


# Legislative Issues Brief





# The Case for Postal Reform

Congress should take action and pass postal reform legislation this year, even in a shortened congressional session.

The Postal Service continues to report billions of dollars in losses, largely due to the oppressive retiree health prefunding mandate. At the same time, there still is optimism about the future of the U.S. Postal Service, especially if Congress gives it greater flexibility. Significant growth in package delivery continues. The Postal Service recently reported a 3.3 percent revenue increase for Fiscal Year 2016's first quarter compared to the same period last year. The increase was driven by a 16 percent increase in package volume and a 13.5 percent rise in shipping and package revenue as a result of a record holiday peak season.

A decade has passed since major postal legislation was last signed into law in 2006. Congress cannot wait any longer; it needs to address the challenges and opportunities that face the agency. It must balance the interests of competing stakeholders and assure the financial stability and continuity of postal operations by passing legislation that addresses the immediate demands and provides a foundation for future legislative action.

**“Even in an increasingly digital world, the Postal Service remains an essential part of the bedrock infrastructure of the economy. The physical delivery of mail and packages to America’s homes and businesses is the core function of the Postal Service, and this fundamental need of the American people will exist for the foreseeable future.”**

*Megan J. Brennan,  
Postmaster General*

## The Ingredients of Postal Reform

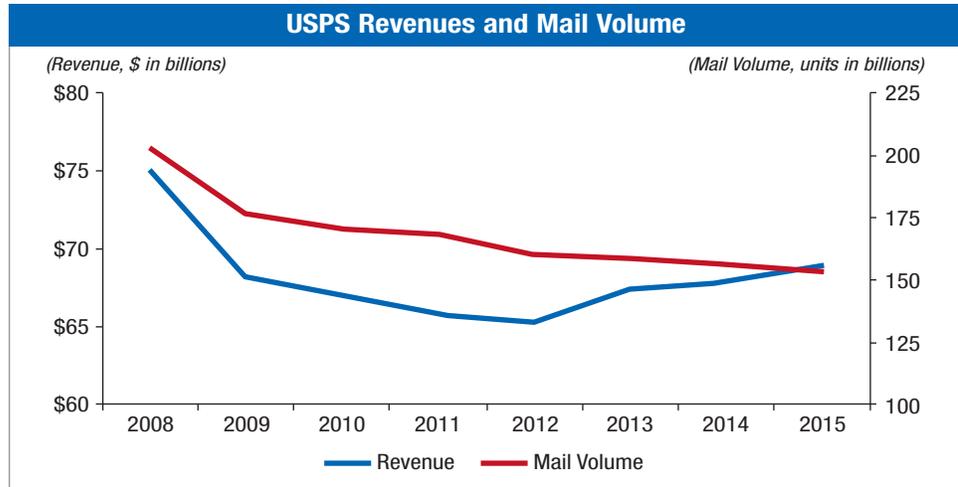
NAPS believes that meaningful postal reform requires the preservation of prompt mail service to all Americans, the repeal of barriers that harm the Postal Service’s financial health and the infusion of innovation into the postal system. Many of these priorities are contained in S. 2051, the bipartisan *iPost* legislation (“Improving Postal Operations, Service and Transparency Act of 2015”) introduced by Sen. Tom Carper (D-DE) and co-sponsored by Sens. Roy Blunt (R-MO), Susan Collins (R-ME), Claire McCaskill (D-MO) and Jerry Moran (R-KS). NAPS has endorsed the legislation.

**Make the exigency surcharge permanent.** Unless Congress acts soon, the Postal Service will be required to lower its prices and forego nearly \$1.2 billion in annual revenue. The “exigency” rate provisions of current law, which have permitted



# The Case for Postal Reform

the Postal Service to add a 4.3 percent rate surcharge, will come to an end sometime this spring, probably in April. The surcharge has permitted the Postal Service to withstand the precipitous decline in volume experienced since the Great Recession by aligning the surcharge with the amount of anticipated revenue lost by the Postal Service.



**“... the USPS’s actions alone under its existing authority will be insufficient to achieve sustainable financial viability; comprehensive legislation will be needed.”**

*Lori Rectanus, Director, Physical Infrastructure Issues, Government Accountability Office*

The upcoming loss of the exigency surcharge, unless reversed by Congress or the courts, will renew significant cost pressures on the Postal Service, forcing management to turn to further consolidations of mail processing plants and other measures for significant cost-savings. Resumption of the Phase II processing plant consolidations, suspended early last year, could erode delivery speed and service quality, just as they did after the last round of plant closures in 2014. Although USPS service measurements around the country have improved since that time, they have not returned to earlier levels before the 2014 closures began. This is especially true for rural areas, where three- to five-day delivery has suffered the most.

**Continue the moratorium on plant consolidations and post office hour reductions.** Since 2002, the Postal Service has made substantial strides in becoming more efficient. It has cut total workhours nearly 30 percent, yielding \$17 billion in savings. The Postal Service also has consolidated roughly half of its mail processing facilities from more than 600 plants to around 300 today. Those cuts and reductions in service standards have significantly weakened service and frayed customer satisfaction, especially in rural areas.

A moratorium is warranted in further service standard changes, mail processing closings and reductions in post office hours. This will provide time for the Postal



Service and the Postal Regulatory Commission to consider the universal service obligation, what levels of serv-

ice are appropriate and whether to roll back to the “modified 1-2-3-day delivery” standard that existed until January 2015. In addition, Congress should extend the current moratorium on post office hour reductions and reclassifications of Level-18-and-below postmasters.

**Fix the retiree health prefunding burden.** Congress should repeal or substantially relax the retiree health benefit prefunding mandate, which has been a major impediment to the Postal Service’s ability to remain solvent. This mandate has accounted for most of the Postal Service’s losses since 2007. The \$5.7 billion annual prefunding charge is the deadweight that continues to drown the Postal Service in red ink.

For five years in a row, the Postal Service has been forced to default on the payment obligations, despite already depositing more than \$50 billion over the past eight years into the Postal Service Retiree Health Benefits Fund (RHBF). Congress needs to address this unfair mandate, rather than allowing service cuts to degrade mail service to residents and businesses, especially in rural areas.

**Integrate Medicare coverage for postal health plans.** It’s also critical that Congress address Postal Service health care costs and assure that the agency—the single largest payer into Medicare—gets full value from the program. The Postal Service should be able to coordinate its retiree health plans with Medicare, just as private businesses do. This has the potential to virtually eliminate the unfunded liability for retiree health benefits and save the Postal Service \$34 billion over 10 years.

**Assure accurate postal pension costs.** Congress also should require OPM to use Postal Service work-force-specific data and other important factors to determine the Postal Service’s pension costs, which would achieve more than \$2.5 billion in savings in the next five years alone.

**Modernize investment of RHBF assets.** Congress also should authorize the investment of RHBF assets in index funds offered by the Thrift Savings Plan, modernizing how those funds are invested and bringing those investment practices in

**“Our delivery fleet includes approximately 140,000 vehicles that are at least 20 years old and are at or near the end of their useful lives. Repair and maintenance costs for these vehicles have risen significantly in recent years and this situation is unsustainable.”**

*Megan J. Brennan,  
Postmaster General*



# The Case for Postal Reform

line with private-sector business and investment practices. Realigning how the RHBF is invested would provide higher returns and relieve the prefunding burden through those higher returns, as well as reduce the federal deficit.

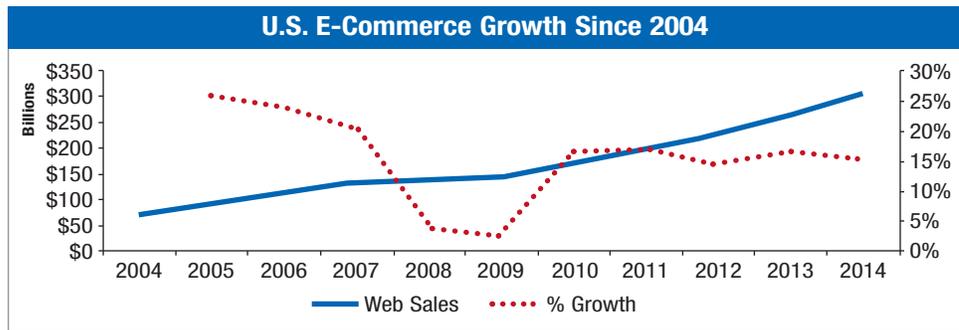
**Kick-start innovation.** In addition, comprehensive postal reform should devote attention to modernization and the assurance of robust innovation in the development and sale of new mail, package and digital products. Legislation should allow



the Postal Service to join UPS, FedEx and others in delivering beer, wine and spirits.

Legislation should go further by pushing faster and more robust innovation, encouraging and allowing the Postal Service to enhance the value of its core mail products and expand its presence in the growing e-commerce parcel and digital service markets. Dated restrictions in current law on the type of products and services the Postal Service can offer should be removed.

Digital services, including limited banking, that complement the Postal Service’s core products and align with the postal mission should be encouraged and authorized, along with services that complement the strategic location of post offices as hubs for the sale of federal and state government services.



**Assure supervisor and postmaster protections.** Congress should approve legislation that protects the rights and privileges of supervisor and postmasters: Standardize MSPB appeal rights for all supervisory and managerial personnel; clarify that the Postal Service may not change pay and/or benefits of Executive and Administrative Schedule (EAS) employees outside the designated pay consultation period, unless the managers’ organizations and the Postal Service mutually agree to such changes; assure that the craft-manager differential applies to both pay and benefits for all EAS personnel at all levels who supervise craft employees.

## Extend Law Enforcement Retirement Benefits to Postal Police Officers

NAPS supports the “Law Enforcement Officers Equity Act”, H.R. 2254, extending to U.S. Postal Service police officers and certain other federal officers the same civil service retirement status and benefits that other federal law enforcement officers already enjoy.

Sadly, postal police officers are ineligible for the early retirement benefits designed to maintain the young and vigorous work force necessary to safeguard the nation’s mail system against life-threatening terrorist and criminal elements.

The Postal Inspection Service is one of the country’s oldest federal law enforcement agencies. It maintains a force of 1,600 uniformed postal police officers. They are assigned to major postal facilities nationwide. Like most federal officers, postal police officers carry firearms and wear body armor to protect them in the line of duty. Postal police officers have been beaten, clubbed, stabbed, shot and killed in the line of duty. Unlike nearly all federal officers and postal inspectors, though, postal police officers are ineligible for early retirement.

Early retirement benefits are designed to maintain the young and vigorous work force necessary to respond to life-threatening situations and dangers at the work place or off-site. As postal police officers grow older, the natural aging process makes it harder for them to maintain the firearms and other standards required to do their jobs. The same approach that has been applied to other law enforcement positions in the federal govern-

ment should be applied to U.S. Postal Service police officers and their supervisors.

Any costs created by early retirement coverage would be more than offset by savings in work-force productivity, reduced turnover and training costs and—most importantly—improved safety to the postal community and the mail. H.R. 1841 would reduce turnover, increase productivity, decrease the costs of recruitment and employee development and enhance the retention of a well-trained and experienced work force.

## Repeal the Windfall Elimination Provision

NAPS supports the “Equal Treatment of Public Servants Act,” H.R. 711. The legislation would repeal the Social Security Windfall Elimination Provision (WEP) and replace it with a fairer formula, helping those who have been impacted by the WEP and those who will be in the future.

The legislation:

- Permanently repeals the current WEP and replaces it with a new formula that treats public servants like the rest of American workers.
- Guarantees that public servants will receive the benefits they earned while they paid into Social Security.
- Reduces the WEP by up to 1/3 for current retirees and up to 1/2 for future retirees—increasing lifetime Social Security benefits by between \$20,000 and \$32,400 (as estimated by the Social Security actuary).
- Does not impact the Social Security trust fund.



# The Case for Postal Reform

## S. 606, S. 2051 and H.R. 1198 Would Confer MSPB Appeal Rights to All Postal Employees Covered by the USPS Executive and Administrative Schedule

**A**pproximately 7,500 mid-level management employees within the U.S. Postal Service do not possess the right to appeal adverse personnel actions to the U.S. Merit Systems Protection Board, despite the intent of Congress to confer such rights to most USPS management personnel through legislation passed in 1987. Federal Circuit Appellate Court and MSPB interpretations of the language used by Congress in passing the 1987 law have narrowly and consistently limited the coverage of MSPB appeal rights. This has resulted in unfairness to USPS employees, created unnecessary costs and, in some cases, prevented the disclosure of fraud, waste and abuse.

To rectify this situation, Sen. Jon Tester (D-MT) and Rep. Gerry Connolly (D-VA) have introduced S. 606 and H.R. 1198, respectively, to amend 39 U.S.C. 1005 to extend MSPB appeal rights over adverse actions to any employee covered by the Executive and Administrative Schedule of the Postal Service. In addition, Sen. Tom Carper (D-DE) has included a similar MSPB appeal rights provision in his *iPost* legislation, S. 2051.

Under these bills, 39 U.S.C. 1005(a)(4)(A) would be amended to extend the right of MSPB appeal over adverse personnel actions to any Postal Service employee who *“is a non-bargaining unit career and non-career employee in a supervisory, professional, technical, clerical, administrative or managerial position covered by the Executive and Administrative Schedule; and has completed one year of current continuous service in the same or similar positions.”*

**Background:** Approximately 7,500 employees lack the right of appeal to the MSPB to challenge adverse actions (removals, suspensions of more than 14 days, reductions in grade or pay and furloughs of 30 days or less). They are covered by the EAS, but are not covered by collective bargaining; they are represented by the National Association of Postal Supervisors. Most other supervisors, postmasters and management personnel in the EAS (about 70,000 employees) possess MSPB appeal rights. Nearly a half-million Postal Service employees who are covered by collective-bargaining agreements maintain some form of third-party appeal rights over adverse actions.

The Tester-Connolly legislation would correct this anomaly by revising the statutory language within Title 39 to confer MSPB appeal rights to all EAS Postal Service

**Approximately 7,500 employees lack the right of appeal to the Merit Systems Protection Board to challenge adverse actions.**

employees. This would be consistent with the spirit of the 1987 law. The EAS is a statutorily authorized pay schedule of the Postal Service intended to cover all “non-bargaining unit career and non-career employees in supervisory, professional, technical, clerical, administrative and managerial positions.” *USPS Employee and Labor Relations Manual (ELM)* 33, Part 411.1 (December 2012).

The statutory language providing the right of MSPB appeal to supervisors, postmasters and managers was approved by Congress in 1987, as the “Postal Employee Appeal Rights Act of 1987,” P.L. 100-90 (Aug. 18, 1987). The current law is codified in 39 U.S.C. 1005(a)(4)(A), which extends the right of MSPB appeal of adverse personnel actions to any Postal Service employee who “*is in the position of a supervisor or a management employee in the Postal Service, or is an employee of the Postal Service engaged in personnel work in other than a purely non-confidential clerical capacity; and has completed one year of current continuous service in the same or similar positions.*”

P.L. 100-90 was the product of bipartisan effort approved in the Senate (S. 541) and House (H.R. 2854) in 1987. The legislation originally had been introduced in the 99th Congress and was first approved by the House in 1985. Prior to 1987, only veteran preference-eligible postal supervisors, postmasters and managers had possessed the right of appeal to the MSPB.

Since 1987, Section 1005(a)(4)(A) has been interpreted by the Federal Circuit Court of Appeals and the Merit Systems Protection Board to exclude employees who do not perform supervisory or management-related responsibilities, even if they are unrepresented by a labor union and are outside the protection of the collective bargaining unit. *See McCandless v. Merit Systems Protection Board*, 996 F.2d 1193 (Fed. Cir. 1993); *Coursen v. U.S. Postal Service*, 256 F.3d 1353 (2001). In reaching that conclusion, the Federal Circuit Court of Appeals and the MSPB have relied on the interpretation of “supervisor or a management employee” as crafted by the National Labor Relations Board.

This restrictive interpretation prevents approximately 7,500 employees within the Postal Service from enjoying the right of appeal to the MSPB over adverse personnel actions, despite their presence outside collective bargaining. As a result, the appeal rights of these employees are limited to an internal grievance, governed by provisions of the *ELM* Section 650. Although only a small number of appeals under Section 650 are filed each year, each appeal is heard by a postal executive appointed to serve as a hearing officer—a delegation of authority likely to result in review that is less impartial than review by the MSPB.

**The Tester-Connolly legislation, as well as the *iPost* bill, would revise the statutory language within Title 39 to confer MSPB appeal rights to all EAS Postal Service employees.**



# The Case for Postal Reform

## Frequently Asked Questions About NAPS and Postal Supervisors

### What is NAPS?

The National Association of Postal Supervisors (NAPS) is a management association representing more than 25,000 active and retired postal supervisors, postmasters and managers employed by the U.S. Postal Service. Organized in 1908, NAPS exists to improve the Postal Service and the pay, benefits and working conditions of its members. NAPS is a management association, not a union.

### Who are typical NAPS members?

Most are first-line supervisors and managers working in either mail processing or mail delivery—what’s called “operations.” Others are postmasters working in post offices. NAPS represents men and women working in virtually every functional unit in the Postal Service, including sales, human resources, training, corporate relations, law enforcement and health and safety.

### Where do NAPS members live?

NAPS members live in all 50 states (and virtually every congressional district), as well as in Puerto Rico, the Virgin Islands and Guam.

### What legislative issues generally concern NAPS?

NAPS devotes its greatest attention to legislation that promotes the vitality and stability of the Postal Service. It also supports legislation that assures fairness in the treatment of federal and postal employees and retirees.

### How have changes in the Postal Service impacted postal supervisors?

Work-force downsizing and other challenges and changes have dramatically impacted postal supervisors. Approximately 8,000 management positions have been eliminated in the past several years. NAPS supports changes in the

law, infrastructure and operations of the Postal Service that will sustain and modernize the operations and products of the Postal Service, without impairing service.

## Why is a postal organization concerned about federal employee retirement and health benefits?

Postal employees and retirees participate in the same pension programs (CSRS and FERS) and the same federal health insurance program (FEHBP) as all federal employees. However, unlike other federal components, the Postal Service is obligated to make prefunding payments for its future retiree health obligations—without the benefit of appropriated taxpayer dollars.

## How are the wages of postal supervisors set?

The pay of postal supervisors and postmasters is determined through a “meet and confer” or “consultation” process involving the Postal Service, NAPS and the other two postal management associations. Postal supervisors and postmasters do not receive annual wage cost-of-living adjustments, as do rank-and-file employees, if available. The pay of rank-and-file postal employees is negotiated through collective bargaining between the Postal Service and their unions.

## How do NAPS members participate in legislative activities?

Approximately 500 NAPS members gather in Washington, DC, every spring for a three-day legislative conference. Much of that time is spent on Capitol Hill visiting members of Congress. Throughout the year, postal supervisors stay in touch with every Representative’s district office and every Senator’s state office, providing helpful information about the Postal Service and its operations.

## How can I reach a postal supervisor?

Begin by calling NAPS Headquarters at 703-836-9660. Ask for Executive Vice President Ivan D. Butts or another resident officer. NAPS also can provide Congressional offices with the names and contact coordinates of its state legislative chairs and branch legislative representatives.

## How can I get information about NAPS quickly?

For general information, visit NAPS’ website: [www.naps.org](http://www.naps.org).

For more detailed information, contact us by email, mail, phone or fax:

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Alexandria, VA 22314-2753

[napshq@naps.org](mailto:napshq@naps.org)

703-836-9660 (phone)

703-836-9665 (fax)



## *The Case for* Postal Reform

# Five Things to Know About

1

### The Postal Service is established by the United States Constitution

The Postal Service is older than the country itself and is based in the Constitution. Article I, section 8, clause 7, which empowers Congress “to establish Post Offices and Post Roads.” The Post Office Department was first led by Postmaster General Benjamin Franklin, who regarded it as a vital means for linking communities throughout the nation. Congress reorganized the Post Office Department in 1970 and created the U.S. Postal Service as an independent agency of the executive branch. Today, the Postal Service provides Americans with the world’s most affordable delivery network, helping businesses both small and large.

2

### No Taxpayer Dollars Support the U.S. Postal Service

The U.S. Postal Service is self-funded and does not rely on taxpayer dollars. The Postal Service operates as a commercial entity and is expected to cover its costs. The Postal Service has not received taxpayer dollars to fund operations since 1982. Its revenues, which amounted to \$67 billion in 2014, rely on the sale of postage and mail products. Congress, in 2006, limited annual increases in postage rates to not exceed inflation.

3

### The Nation’s Postal System Is an Economic Engine for the Nation

Even in an increasingly digital world, the Postal Service remains a cornerstone of America’s economic and communications infrastructure. It delivers to more than 155 million homes, businesses and post office boxes in every state, city, town and borough in America. Trillions of dollars move through the postal system every year. Almost one half of all bills still are paid by mail. The Postal Service is the driver of a \$1.4 trillion-a-year mailing industry that employs 7.5 million people across the country, or six percent of the nation’s jobs. Overall, the Postal Service and related industries contribute to 7 percent of the nation’s gross domestic product.

The mailing industry includes catalog companies, publishers, charities, advertisers, political campaigns and transactional mailers—banks, insurance companies, utilities, telecommunications companies—as well as those that support these businesses, including printers, paper companies, technology companies and other service providers. Households and businesses rely on a healthy and affordable Postal Service to bind America together and promote commerce. The Postal Service also is the largest civilian employer of veterans; one-quarter of its employees served in the military.

# the Postal Service

## 4

### The Postal Service Delivers Everywhere; Others Don't

The Postal Service delivers more mail to more addresses in a larger geographical area than any other post in the world; it also is the world's largest retail network—larger than McDonald's, Walmart and Starbucks (in the U.S.) combined. In the U.S., it is the only organization in the country that has the manpower, network infrastructure and logistical capability to deliver to every residence and business in the U.S and its territories. During the past fiscal year, the Postal Service handled 155 billion pieces of mail.

The Universal Service Obligation (USO) ensures that every American citizen can send and receive mail at affordable prices. The USO originates from the constitutional authority of the federal government to maintain and operate post offices. The USO is achieved through Postal Service delivery network, or its unique “hard” network throughout the country.

The Postal Service delivers mail to 155 million residences, businesses and post office boxes in every state, city, town and borough in the country—10 million more delivery points than a decade ago. UPS and FedEx do not deliver to rural and remote locations that are not profitable; instead, they rely on the Postal Service to take their packages the “last mile” for delivery. The Postal Service does not impose a fuel surcharge on its customers, charging just 49 cents for a letter going anywhere in the U.S. and its territories, even though it receives NO tax dollars for its operating expenses and must cover all of its own costs.

## 5

### Postal Service Customer Trust Is at Record Levels

While public confidence in Congress has fallen to record lows, customer trust in the Postal Service remains at record highs. For nine years in a row, the American public has rated the Postal Service the most trusted government agency in the annual Ponemon Institute's annual survey. In addition, the Postal Service ranks as one of the 10 most-trusted companies within the private sector.

The results show that customers regard the Postal Service as one of the best companies in the country in keeping their information safe and secure. Consumer confidence, brand loyalty, a high-performing work force and universal presence are the Postal Service's key assets.



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