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PAYMENTS ON UNFUNDED LIABILITY BY THE U.S. POSTAL SERVICE TO CIVIL SERVICE RETIREMENT FUND

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HEARING

BEFORE THE

COMMITTEE ON

OFFICE AND CIVIL SERVICE

UNITED STATES SENATE

NINETY-THIRD CONGRESS

SECOND SESSION

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 IN-
CREASES IN BENEFITS FOR POSTAL SERVICE EMPLOYEES,
AND FOR OTHER PURPOSES

MAY 30, 1974

Printed for the use of the
Committee on Post Office and Civil Service



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INFORMATION



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PAYMENTS ON UNFUNDED LIABILITY BY THE U.S. POSTAL SERVICE TO CIVIL SERVICE RETIREMENT FUND

THURSDAY, MAY 30, 1974

**U.S. SENATE,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.**

The committee met, pursuant to notice, at 10:05 a.m., in room 6202, Dirksen Senate Office Building, Hon. Gale W. McGee (chairman of the committee) presiding.

Also present: Senators Fong and Stevens.

Staff members present: Dan Doherty, professional staff member, and Clyde DuPont, minority counsel.

OPENING STATEMENT BY CHAIRMAN MCGEE

The CHAIRMAN. We have other members of the committee who are elsewhere committed who are coming a little later this morning, so they said. So we will proceed without delay.

This particular hearing is concerned with legislation to fix the responsibility for financing the unfunded liability created in the civil service retirement fund by virtue of pay increases for employees of the U.S. Postal Service.

Under the Postal Reorganization Act, officers and employees, with the exception of the Board of Governors, remain covered by the civil service retirement system.

That act, however, was silent on the question of who was to pick up the tab on the unfunded liability attributable to Postal Service employees.

Because the Postal Service itself was conceived as a financially self-sustaining and independent entity of the Federal Establishment, the question is obvious, and that is whose liability is this?

Because the question has not been resolved, this hearing is addressing itself to a House passed bill, H.R. 29, that proposes a solution.

The enactment of the Postal Reorganization Act has resulted in a series of pay increases, as well, that have contributed further to the unfunded liability.

The House bill fixes the future responsibility for payments to the fund on the Postal Service. There does not appear to be any basic argument over the broad principle of the issue, but the Congress has, through the Appropriations Committees, provided for the payment of annual installments for the years 1972, 1973, and 1974 by the Postal Service. This amounts to \$285 million resulting from the first collective bargaining agreement back in 1971.

So, the primary question is where to fix the responsibility for amortizing the unfunded liability already created in the wake of the Postal Reorganization Act.

The committee also has before it this morning a proposed substitute in the nature of a compromise, drafted by the Postal Service.

While it is retroactive to July 1, 1971, it would relieve the Service of the imminent burden placed on it by the first three liability payments.

That \$285 million sum would be paid when Congress appropriated the necessary funds.

The draft would also eliminate the requirement now in law for the Service to pay administrative costs, which amounts to double payment really.

We have two witnesses this morning.

The first one is Mr. Thomas A. Tinsley, Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission.

He will be followed by Ralph Nicholson, Senior Assistant Postmaster General, Finance, U.S. Postal Service.

Do you have a statement?

Senator FONG. I have no statement.

The CHAIRMAN. Mr. Tinsley, before you proceed, for the record, I request that H.R. 29 with its agency reports be placed in the hearing at this point.

[The aforementioned follows:]

93^d CONGRESS
1st Session

H. R. 29

IN THE SENATE OF THE UNITED STATES

MAY 8, 1973

Read twice and referred to the Committee on Post Office and Civil Service

AN ACT

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 8348 (f) of title 5, United States Code, is
4 amended by striking out "fiscal year" and inserting in lieu
5 thereof "first fiscal year after the fiscal year".

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

9 "(h) (1) Notwithstanding any other provision of law,

II

1 the United States Postal Service shall be liable for that por-
2 tion of any estimated increase in the unfunded liability of the
3 Fund which is attributable to any benefits payable from the
4 Fund to active and retired Postal Service officers and em-
5 ployees, and to their survivors, when such increase results
6 from an employee-management agreement under title 39,
7 or any administrative action by the Postal Service taken
8 pursuant to law, which authorizes—

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

12 “(B) extension of the coverage of subchapter III
13 of this chapter; or

14 “(C) increases in pay on which benefits are com-
15 puted.

16 “(2) The estimated increase in the unfunded liability,
17 referred to in paragraph (1) of this subsection, shall be
18 determined by the Civil Service Commission. The United
19 States Postal Service shall pay the amount so determined to
20 the Commission in thirty equal annual installments with in-
21 terest computed at the rate used in the most recent valuation
22 of the Civil Service Retirement System, with the first pay-
23 ment thereof due at the end of the first fiscal year after the
24 fiscal year in which an increase in pay or a new or liberalized
25 benefit becomes effective.”.

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

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

Passed the House of Representatives May 7, 1973.

Attest:

W. PAT JENNINGS,

Clerk.



LAW DEPARTMENT

Washington, DC 20260

February 25, 1974

Dear Senator McGee:

The Postal Service recommends that the attached draft bill be substituted for the text of H.R. 29 as that bill passed the House of Representatives on May 7, 1973. The draft bill has the support of the Civil Service Commission and the Office of Management and Budget.

As passed by the House, H.R. 29 would require the Postal Service to reimburse the Civil Service Retirement and Disability Fund for increases in unfunded liability resulting from postal pay increases negotiated in collective bargaining agreements under title 39 or effected through lawful administrative action of the Postal Service. Since the House bill has no effective date provision, the effect of enactment of the bill, at the time it passed the House, would have been to relieve the Postal Service of all unfunded liability payments flowing from the first collective bargaining agreement of July 20, 1971.

In July, 1973, however, the Postal Service concluded contract negotiations and signed the second collective bargaining agreement. If the House bill were now to be enacted in its present form it would relieve the Postal Service of all liability flowing from the second collective bargaining agreement as well, which would be contrary to the expressed intention of the House.

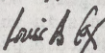
The attached bill represents an approach that we believe would be equitable both to postal ratepayers and the public. It would provide in section 3 an effective date of July 1, 1971, but would relieve the financial burden of the postal ratepayer for covering the first three unfunded liability payments for fiscal years 1972 through 1974 resulting from the first collective bargaining agreement, amounting to about \$285 million. Under section 3 the Postal Service would make these back payments to the Civil Service Retirement and Disability Fund as soon as funds have been appropriated to the Postal Service for that purpose.

Thus section 3 would eliminate the requirement in title II of the Treasury, Postal Service, and General Government Appropriation Act, 1974, P.L. 93-143, that the Postal Service transfer \$142,333,500 to the Civil Service Retirement and Disability Fund. The net effect of section 3 would be to make the Postal Service responsible for all unfunded liability resulting from the first and second collective bargaining agreements and future such agreements, except that the Postal Service would not be required to pay the first three annual installments attributable to the first collective bargaining agreement until Congress appropriates funds to the Postal Service for that purpose.

In order to make the wording of the bill technically correct, we deleted in section 1 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. Since subparagraphs (A) and (B) imply a non-existent power, we deleted them. We also made a conforming change in paragraph (2).

For the above reasons, we recommend, with the concurrence of the Civil Service Commission and the Office of Management and Budget, enactment of the attached draft as a substitute for the text of H.R. 29 as passed by the House. The Office of Management and Budget has advised that enactment of this substitute for H.R. 29 would be in accord with the President's program.

Sincerely,



Louis A. Cox
General Counsel

Honorable Gale W. McGee
Chairman, Committee on Post
Office and Civil Service
United States Senate
Washington, D.C. 20510

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

FEB 23 1974

Honorable Gale W. McGee
Chairman, Committee on Post
Office and Civil Service
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The U. S. Postal Service recently proposed to your Committee that H. R. 29, as passed by the House on May 7, 1973, be revised with substitute language to reflect the current plans of the Postal Service for assuming the cost of unfunded liability payments to the Civil Service Retirement and Disability Fund. The Office of Management and Budget would like to express its support of the proposed Postal Service revision and request that it be given early congressional consideration.

As you are aware, H. R. 29 as currently drafted would require the Postal Service to reimburse the Civil Service Retirement and Disability Fund for all increases in the unfunded liability of the Fund resulting from future pay increases for Postal employees. The proposed substitute language would make the Postal Service responsible for all increases in unfunded liability, past and future. The proposed substitute provides, however, that the first three annual installments for fiscal years 1972 to 1974, attributable to the 1971 collective bargaining agreement, will be reimbursed to the Postal Service from appropriated funds.

We believe, along with the Postal Service and the Civil Service Commission, that the substitute language provides an equitable solution to this issue of determining the financial responsibility for making these payments to the Civil Service Retirement and Disability Fund. Enactment of this legislation will be beneficial in that it will result in early payment of amounts now past due to the Fund. It will also permit more orderly financial planning for the Postal Service by resolving the uncertainties regarding its liabilities. Further, it avoids the difficulties for the Postal Service resulting from the requirements in appropriation language that these payments be made to the Fund out of the regular Federal payment to the Postal Service.

In line with the provisions of the proposed substitute language, the President's 1975 Budget states the intention to request a supplemental in the amount of \$285 million to reimburse the Postal Service for the first three annual payments attributable to the first collective bargaining agreement. This supplemental request would be transmitted to the Congress as soon as the necessary legislation is enacted.

Enactment of the proposed Postal Service substitute language for H.R. 29 would be in accord with the program of the President.

Sincerely,

(signed) Wilfred H. Rommel

Wilfred H. Rommel
Assistant Director for
Legislative Reference



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

February 28, 1974

Honorable Gale W. McGee
 Chairman, Committee on Post Office
 and Civil Service
 United States Senate
 Washington, D. C. 20510

Dear Mr. Chairman:

The Civil Service Commission would like to express its support for the Postal Service's proposed substitute language (copy attached) for the current text of H.R. 29 which was passed by the House on May 7, 1973. This substitute language reflects current Postal Service plans for assuming responsibility for full payment of unfunded liability cost to the Civil Service Retirement and Disability Fund.

H.R. 29, as originally passed by the House, would not apply to existing unfunded liabilities. The draft bill which has been proposed by Postal Service as a substitute for H.R. 29 would remedy this situation. It would require the Postal Service, effective July 1, 1971, to make payments for that portion of increases in the unfunded liability of the Civil Service Retirement and Disability Fund which are attributable to the Postal Service. 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 in which a pay increase is effective. The Commission is strongly in favor of this proposal in the draft bill.

We also support deleting the last sentence of 39 U.S.C. 1005(d), section 2(a) of the draft bill. This would eliminate, retroactive to July 1, 1971, the existing statutory requirement on the Postal Service for the payment of administrative cost to the account of the Fund. The existence of this provision has resulted in a second or double payment of these administrative costs. The normal cost, which is the ultimate standard for contributions, already contains an allowance for administrative expenses. In conclusion, the Commission supports the draft bill proposed by the Postal Service as being preferable to H.R. 29.

The Office of Management and Budget advises that enactment of the substitute version of H.R. 29 would be in accord with the President's program, and that there is no objection to submission of this report.

By direction of the Commission:

Sincerely yours,

Robert Hampton
 Chairman

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.

Be it enacted by the Senate and House of Representatives of the

United States of America in Congress assembled, That section 8348 of title 5, United States Code, is 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 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 fiscal year in which an increase in pay becomes effective".

SEC. 2. (a) The last sentence of section 1005(d) of title 39, United States Code, 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

1 Service shall pay into the Civil Service Retirement and Disability Fund
2 the amounts determined by the Civil Service Commission under section
3 8348(h)(2) of title 5".

4 SEC. 3. The effective date of this Act shall be July 1, 1971, except
5 that the Postal Service shall not be required to make (1) the first three
6 annual installment payments attributable to pay increases granted by the
7 Postal Service prior to July 1, 1973, until such time as funds are
8 appropriated to the Postal Service for that purpose, and (2) the transfer
9 to the Civil Service Retirement and Disability Fund required by title II
10 of the Treasury, Postal Service, and General Government Appropriation
11 Act, 1974, P. L. 93-143.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-130441

May 30, 1974

The Honorable Gale W. McGee, Chairman
Committee on Post Office and Civil Service
United States Senate

Dear Mr. Chairman:

In response to your letter of May 20, 1974, we offer the following comments on H.R. 29, 93d Congress, as passed by the House of Representatives.

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. Such financing is to be accomplished by thirty equal annual payments commencing as of the end of the fiscal year in which an action creating unfunded liability is effective.

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. 29 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 by the Postal Service 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.

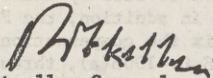
The existing legislative history discloses that such liability would apply only with respect to employee-management agreements and other Postal Service actions taken after the effective date of the legislation. See House Rept. No. 93-120.

H.R. 29 would also amend 5 U.S.C. 8358(f), *supra*, to provide that annual payments to the Fund authorized therein commence as of the end of the fiscal year following the fiscal year in which an action creating unfunded liability is effective (the first section of the bill); and would repeal the requirement of 39 U.S.C. 1005(d) that the Postal Service pay certain administrative costs of the Fund (section 3(a)).

In a letter dated June 20, 1972, to the Chairman of the Subcommittee on Treasury-Postal Service and General Government of the House Appropriations Committee, B-130150, we expressed the opinion that there is no provision of existing law which holds the Postal Service liable for payments to the Fund for the unfunded liability created by its employee-management agreements and other administrative actions. As a result, under this interpretation of the present law, the unfunded liability thus created apparently would either be financed pursuant to 5 U.S.C. 8348(f), 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. 29.

Sincerely yours,



Deputy Comptroller General
of the United States

**STATEMENT OF HON. THOMAS A. TINSLEY, DIRECTOR, BUREAU OF
RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH, U.S.
CIVIL SERVICE COMMISSION**

Mr. TINSLEY. Thank you, Mr. Chairman.

If the committee wishes, my prepared statement can be placed in the record.

The CHAIRMAN. We will make your full statement and formal statement a part of the record.

Mr. TINSLEY. I will just briefly summarize it.

I believe the chairman has clearly stated the problem. The Commission supports the substitute for H.R. 29 as it passed the House.

The substitute differs in two respects from H.R. 29.

One, it relieves the Postal Service from paying the administrative expenses in operating the retirement fund which, as you pointed out, is double payment.

The second thing it does is resolve the issue of the liability of the unfunded liability payments that exist at the present time.

H.R. 29, as passed by the House, would only apply to the future and would leave hanging the question as to who was to be responsible for payments to date of enactment. I do not believe there is any disagreement between ourselves and the Post Office on the substitute legislation, and we would urge the committee to take favorable action and hopefully it would pass both Houses.

I will be pleased to answer any questions.

The CHAIRMAN. What is the size of the unfunded liability attributable to the U.S. Postal Service?

Mr. TINSLEY. The unfunded liability at the present time attributable to the Postal Service amounts to about \$3.2 billion.

If I take the unfunded liability created by the first three Postal pay raises, that amounts to \$2.8 billion.

In 1975, we estimate there will be added another \$463 million, which would bring the total unfunded liability to \$3.2 billion.

The CHAIRMAN. Can you give us an estimate based on the current situation of the size of the annual installments that would be payable by the Postal Service under H.R. 29 as it passed the House, and then set alongside that the annual payment percentage under the proposed substitute bill?

Mr. TINSLEY. The payments by the Postal Service in the future would be about the same. The only difference would be that instead of the Appropriations Committee doing as they have now done for prior payments, which is insert in the Appropriations Act a provision for payment that \$142 million, which is half the payment, Congress would have to appropriate either to the funds the \$285 million due as part of its normal amortization payment to the fund—the normal amortization payment to the fund exclusive of the Post Office is \$882 million a year.

If I would add to that the Postal payment, it amounts to a little over a billion dollars a year.

Postal Service annual payment would be \$174 million a year going forward. This is the annual liability they would assume as of this time.

The CHAIRMAN. How are the liabilities stemming from the liberalization of retirement benefits which go to Postal retirees as well as others now funded.

Mr. TINSLEY. They are now funded by appropriations by Congress to the fund, this annual amortization.

Any time Congress enacts legislation liberalizing the benefits, there is authorized an annual appropriation out of the general fund of the Treasury a payment to cover the unfunded liability, and that payment, as you mentioned, is amortized over a 30-year period.

The CHAIRMAN. This pending compromise measure, does it alter that practice?

Mr. TINSLEY. No, Mr. Chairman, it would not alter that practice.

In fact, the Postal Service would not be responsible for acts of Congress.

The Postal Service would only be responsible for actions they take administratively, and this usually will occur through their negotiations with their unions.

The CHAIRMAN. You share the view that there is no provision now in law to provide for the payment of these funds to civil service retirement fund except out of the General Treasury?

Mr. TINSLEY. That was the opinion of the Comptroller General, and far be it from me to disagree with the Comptroller General.

The CHAIRMAN. Suppose this compromise proposal here failed to pass and did not make it, what alternative would the Commission face?

Mr. TINSLEY. The only alternative would be that we would, each year, go to Congress and ask for an appropriation.

As you recall, we did this several years ago, and that was when the question was raised. It was deleted from the Commission budget, and I believe the Chairman, Mr. Steed, asked the Comptroller General for his opinion at that time.

Once the Comptroller General had given the opinion, we have since then not included it in any appropriation request.

The CHAIRMAN. Without some kind of action, the integrity of the fund, I suppose, would be called into question?

Mr. TINSLEY. It would continue to build up additional unfunded liability that eventually someone would have to pay for.

The CHAIRMAN. The Chairman of the Commission in a communication of last February, expressed support for this compromise measure that we have before us.

Now, under this substitute which would absolve the Service the necessity of making the payment to the fund required by the Treasury-Postal Service Appropriation Act of 1974, an appropriation from the General Treasury would be required straight out?

Mr. TINSLEY. That is correct, Mr. Chairman.

The CHAIRMAN. What exactly would that appropriation cover?

Mr. TINSLEY. It would be in the same amount and it would cover this existing unfunded liability created by the Postal Service administrative action.

The CHAIRMAN. Let us suppose for a moment that this compromise became a law, and then the appropriations were subsequently denied.

What then happens?

There are two processes here.

Mr. TINSLEY. The fund would fall short. The legislation passed in 1969 by the Congress to provide some type of permanent financing mechanism is dependent entirely upon Congress appropriating the money.

All the legislation does is establish the financing mechanism and authorize the appropriation.

Congress, at any time, can withhold that appropriation, whether it be the Postal Service or the General Service, so it is dependent entirely on the action of the bodies of Congress.

The CHAIRMAN. Do you have any modifications or changes that you would submit to the committee in regard to this compromise proposal?

Mr. TINSLEY. I do believe so, Mr. Chairman.

The compromise proposal solves the problem insofar as the Commission is concerned, having the responsibility for the maintenance and integrity of the retirement fund, really as long as the money goes into the fund, the source of it really is not that important, whether it comes from the Postal Service—

The CHAIRMAN. That is all I have.

Senator Fong?

Senator FONG. After enactment of the Postal Reorganization the Kappel commission recommended that the Postal Service pay its way.

Now, we are asked to pay the way for retirement of postal employees.

In the Reorganization Act, was there not mentioned this retirement provision, this question on retirement?

Mr. TINSLEY. I do not believe so.

The way the 1969 retirement financing legislation was worded, it addressed itself to acts of Congress.

At that time, although there was under consideration doing something with the Postal Service, I do not think anyone anticipated that any Government body would have complete control of its salary structure, whereby they would, without an act of Congress, be able to increase salaries, modify certain laws that were on the books.

When the Postal Reorganization Act was passed, while it referred in various sections to the continuation of coverage under the retirement fund, under the Health Benefits Act and Life Insurance, although the provision there is slightly different, as well as the Federal Employees Compensation Act, it did not address itself to the question now before us created by the fact that they would have administrative authority to do certain things.

When you look at that and then look at the language of the 1969 law, I can see why the Comptroller General concluded that there was no provision.

While the Kappel group was considering reorganization of the post office, I do know that they considered, prior to the enactment of the legislation, whether or not the Postal Service should operate its own retirement system, or do a number of other things.

I can only conclude that in view of the legislation that if they did the idea was rejected.

Senator FONG. Should not the post office, if it is going to be self-sufficient, outside of the subsidies we have already provided for it, in that they are specifically subsidies of a billion dollars for the first 10 years, and picking up other foregone expenditures, revenues foregone, that we are now called upon to continue to take care of the retirement feature of the employees in the Postal Service, is that not something which we never bargained for?

Mr. TINSLEY. I am not sure what Congress bargained for when they enacted the Postal Service Reorganization.

If Congress fully intended the Postal Service to be self-sufficient, to operate like any other private business concern, then I would say that yes, Congress did not intend to continue to subsidize everything that the Postal Service did.

Senator FONG. I can understand that the unfunded liability for the period right up to the time of reorganization would be an obligation of the Federal Government, paid out of the general fund, but to say that from time on we will go on indefinitely to pick up the retirement of postal employees, I never anticipated it.

Mr. TINSLEY. I am sure there are a number of Members of Congress that did not anticipate that.

However, the way the current situation developed, this is a decision that Congress is going to have to make now as to who assumes the liability in this instance.

The 1969 legislation apparently does not clearly provide for it, and the Postal Service Reorganization Act does not provide for it.

The purpose of this legislation is to provide for it.

The only two ways of doing it is either the Postal Service, through its own resources, through its Postal Rate Commission, gets the money and pays it at the direction of Congress, or Congress appropriates the money.

The third alternative is to go on as we are with nobody providing for the payment of unfunded liability created by the acts of the Postal Service.

UNFUNDED LIABILITY

Senator FONG. So, in the past 3 years, during the existence of the Postal Service, nobody has paid for it?

Mr. TINSLEY. Not for the \$2.8 billion unfunded liability.

We have not received any payments toward that unfunded liability.

There is in the existing Appropriation Act a provision to appropriate to the Postal Service \$142 million to be transferred to the civil service retirement fund. That pays half of the payment due by the Postal Service.

Next year's appropriation also would provide for another \$142 million.

That is the way it is being temporarily provided for.

Senator FONG. This payment of one-half, how did it come about?

Mr. TINSLEY. I think the Postal Service probably is in a better position to answer that because, actually, it was contained in their Appropriation Act, and I am not familiar with how that arrangement came about.

Senator FONG. Now, as I understand this \$2.8 billion unfunded liability, when did that stop? When did that obligation stop?

Mr. TINSLEY. The \$2.8 billion unfunded liability was created by Postal Service raises that were negotiated between the Postal Service and the employee unions, that were effective in 1972, 1973, and 1974.

Senator FONG. So, none of that \$2.8 billion covers any of the unfunded liability prior to that time?

Mr. TINSLEY. No, Senator, it does not.

Senator FONG. So the unfunded liability prior to that time was how much for all employees?

Mr. TINSLEY. The unfunded liability prior to 1969 was about \$58 billion.

Senator FONG. \$58 billion?

Mr. TINSLEY. Yes.

Senator FONG. What is the unfunded liability today?

Mr. TINSLEY. About \$68.7 billion.

Senator FONG. Did you take into account the \$3 billion that we anticipate would come out of the law that just recently passed—

Mr. TINSLEY. That is not included in that, nor is the upcoming unfunded liability created by the cost-of-living increase which would be effective July 1.

We project that the unfunded liability without any additional legislation being enacted by Congress in 1975 will increase to about \$74 billion.

ANNUAL INTEREST PAYMENT

Senator FONG. Now, in the cost-of-living increases, has the Congress taken any action in funding that liability?

Mr. TINSLEY. The only way the cost-of-living increases are funded is through the mechanism provided for unfunded liability that existed in 1969.

In that case, the Congress pays an annual interest payment equivalent to the amount that that money would earn if it were in the retirement fund.

In other words, to put it simply, we pretend it is there, and Congress appropriates the interest it would have earned if it were there.

That is the only payment made toward this unfunded liability.

Senator FONG. On the \$68 billion unfunded liability we have taken the same position?

Mr. TINSLEY. That is correct.

Senator FONG. Just paying interest?

Mr. TINSLEY. Yes.

Senator FONG. In other words, after 30 years, the money will not be there, but we will just be taking care of the interest payments—

Mr. TINSLEY. That is right.

Senator FONG. When we talk about \$68 billion in the hole, you will still be \$68 billion deficit?

Mr. TINSLEY. Yes.

Senator FONG. Is that true?

Mr. TINSLEY. In 1969, Congress did not intend to wipe out the unfunded liability that existed. All it intended to do was control the growth of it or to attempt to stabilize it at some point in time.

The point in time it was estimated that it would fully be under control was approximately 1980 or in the early 1980's.

Senator FONG. When you say stabilize, what do you mean?

Mr. TINSLEY. Prevent it from increasing at the rate it was increasing prior to 1969.

Senator FONG. In other words, when we say \$68 billion in deficit, we will still be in deficit. Nothing has been done to take care of that?

Mr. TINSLEY. Nothing has been done other than to pay an amount of interest on it.

Senator FONG. So the trust fund remains in deficit—

Mr. TINSLEY. That is right.

Senator FONG [continuing]. And will continue to remain that way?
Mr. TINSLEY. And will continue to remain in deficit.

Senator FONG. The amount we are paying now only takes care of interest?

Mr. TINSLEY. Take care of interest and all legislation that Congress enacted since 1969 that liberalized benefits, including pay legislation, is amortized.

No unfunded liability is created by that.

The payments are being made toward that over a 30-year period.

Senator FONG. After the 30-year period, will they still be called upon to pay interest?

Mr. TINSLEY. Yes, on the unfunded liability that is there.

The interest payment, unless Congress were to turn around and appropriate as of this point in time \$68.7 billion, yes, you will continue to pay that interest indefinitely.

The CHAIRMAN. That explains why so many of our colleagues are retiring voluntarily. They want to get these checks before they run out, you know.

When you and I get there, they may be empty.

Senator FONG. That is what I am worried about.

Mr. TINSLEY. These annual payments are becoming quite sizable.

Senator FONG. I understand. I understand by 1980 the interest payment will be what, \$14 billion?

Mr. TINSLEY. Well, interest plus the 30-year payment will range between \$11 and \$14 billion, without any further liberalizing legislation.

I might correct something I said earlier.

I mentioned that Congress was paying the interest on that. They are not paying the total amount of the interest.

They decided in the 1969 legislation to start slowly and build up to the full interest payment.

So, in 1971, they paid 10 percent of what the total interest payment would be, and they add 10 percent each year.

So, in 1975, we will be receiving half of the interest that that money would have earned had it been in the fund. It will not be in until 1980 until we receive the full interest payment.

Senator FONG. So our payments annually—we are not even taking care of the interest payments?

Mr. TINSLEY. Not at the present time.

We will not take care of them until 1980.

Senator FONG. So we are worse off than we thought?

Mr. TINSLEY. Yes—

The CHAIRMAN. It depends on what we thought.

Senator FONG. What I thought. I thought we were making payments on the principal also. But evidently we are not making payments on the principal.

Mr. TINSLEY. On any actions the Congress has taken since 1969 you are making principal and full interest payments.

It is only the unfunded liability that existed prior to 1969 that you are building up this interest.

Senator FONG. I see.

Now, on these cost-of-living increases, have we taken care of principal?

Mr. TINSLEY. No, there is no provision to take care of the cost-of-living increase. That was provided by legislation that was enacted prior to 1969 and, therefore, the amortization of the unfunded liability section of the law does not apply to that.

So we still have a problem with the unfunded liability which is being created by the cost-of-living increases.

While, in 1969, this may not have appeared to have been too important, with the recent trends in inflation, where inside of the last 18 months we have had three cost-of-living increases, this is becoming a somewhat serious financing problem.

Senator FONG. So we have treated the cost-of-living increase like a bonus?

Mr. TINSLEY. In effect, yes.

Senator FONG. To be paid off by the general fund?

Mr. TINSLEY. Yes, eventually.

Senator FONG. Not to be funded, but to be paid off currently?

Mr. TINSLEY. No, it is not being paid off currently. It is just adding to the unfunded liability. This is one reason I mention current unfunded liability of about \$68.7 billion, and by the end of 1975 it will be \$74 billion.

The two reasons for that are the fact that the cost-of-living increase creates unfunded liability, so I add that to the \$68.7 billion.

In addition to that, some unfunded liability is being created by failure to keep up with the full interest payment.

Senator FONG. What did the House do in its bill?

Mr. TINSLEY. The House, in H.R. 29, merely placed the responsibility on the Postal Service for any unfunded liability payments after date of enactment. It did not take care of the payments due for unfunded liability in 1972, 1973, and 1974.

Senator FONG. Now, in the change which you have recommended, which has been agreed to, is the House provision still intact?

Mr. TINSLEY. The Postal Service would pick up the unfunded liability for the future.

In addition to that, there is a provision in the revised bill that brings this back to 1971, which means that Congress will appropriate the first three payments that should have been made by the Postal Service.

However, the Postal Service will pick up from that point on, from date of enactment, and make all the payments in the future.

Senator FONG. Now, in this revised bill, what have you done to change that?

Mr. TINSLEY. I am sorry, Senator. The description I just gave you is the revised bill. The H.R. 29, as it passed the House, did not contain the provision that would make the Postal Service responsible for any unfunded liability prior to the date that H.R. 29 was enacted.

Senator FONG. Now, let me see.

The House bill will force the Postal Service to take care of anything—

Mr. TINSLEY. Unfunded liability in the future.

Senator FONG. This bill will remain the same?

Mr. TINSLEY. In that respect, but it adds to it the responsibility of the Postal Service to assume the annual payment for the unfunded liability created since 1971.

Senator FONG. This is a bill which you are recommending?

Mr. TINSLEY. That is correct, Senator.

Senator FONG. That the House was more liberal than the one you are now proposing?

Mr. TINSLEY. The House was willing to relieve the Postal Service of the past payment.

Senator FONG. You are recommending that we do not relieve the Postal Service?

Mr. TINSLEY. That is correct.

The CHAIRMAN. Not totally?

Mr. TINSLEY. Not totally.

The CHAIRMAN. Partially?

Mr. TINSLEY. Partially.

Senator FONG. For the past 3 years?

Mr. TINSLEY. Yes.

Senator FONG. When you say totally or partially, how do you explain that?

Mr. TINSLEY. Well, these annual payments represented by the \$285 million, the Post Office will assume them following enactment of H.R. 29.

The way H.R. 29 was originally written, they would never assume them.

Senator FONG. I see.

So that was kept in limbo by the House bill?

Mr. TINSLEY. It was not provided for, that is correct.

Senator FONG. And somebody would have to pick that up?

Mr. TINSLEY. That is correct, sir.

Senator FONG. So now we are saying that the Postal Service would pick that up—

Mr. TINSLEY. For the future.

Senator FONG. For the future and for the past?

CONGRESSIONAL APPROPRIATION

Mr. TINSLEY. Congress will appropriate for the past three payments.

Senator FONG. Congress will appropriate?

Mr. TINSLEY. Yes.

Senator FONG. So we are asking the Congress now to appropriate \$280 million?

Mr. TINSLEY. \$285 million.

Senator FONG. \$285 million?

Mr. TINSLEY. Yes.

Senator FONG. Which the House has not made its views known on?

Mr. TINSLEY. Only in the Appropriation Act.

Their title II of the Appropriation Act contains a provision that does appropriate \$142 million—it really does not appropriate. It is in title II which, I believe, contains an appropriation to cover various items in the Postal Service.

In that title there is language that directs the Postal Service to transfer to the civil service retirement fund \$142 million.

The reason for the \$142 million is that this is half of the \$285 million annual payment that they paid.

Senator FONG. So, in this bill, which you are now recommending for us to approve, is for the Postal Service to appropriate how much money?

Mr. TINSLEY. For the future it would be more than \$174 million.

Senator FONG. Instead of \$142 million?

Mr. TINSLEY. That is right.

Senator FONG. So we have asked to appropriate another \$142 million over and above what the House has—

Mr. TINSLEY. If this bill is enacted, that \$142 million would not need to be paid by that particular appropriation.

Congress would have to appropriate the \$285 million in some manner.

Senator FONG. I thought you said the Postal Service was supposed to pay this.

Mr. TINSLEY. In the future.

But, at the present time, there is \$285 million that has not been paid by anybody.

The CHAIRMAN. In 3 years.

Senator FONG. You are talking about 1971, 1972, and 1973?

Mr. TINSLEY. Yes.

Senator FONG. Fiscal years 1972, 1973, and 1974?

Mr. TINSLEY. That is correct.

Senator FONG. It is \$285 million?

Mr. TINSLEY. That is correct.

Senator FONG. So this bill will take care of that by an appropriation by Congress?

Mr. TINSLEY. Congress would have to appropriate money, that is correct.

Senator FONG. In future years?

Mr. TINSLEY. The Postal Service would pick it up.

EMPLOYEE CONTRIBUTION

Senator FONG. Now, the Postal Service picks up everything from now on, that is for retirement of their own employees?

As I understand, a contribution is made by Federal employees, one-half by Federal employees and one-half by Government.

Mr. TINSLEY. That continues to be the case with the Post Office. They are doing that now and it will continue to be the case.

Senator FONG. As far as postal employees are concerned, the Federal Government still takes care of the Government's portion of payment to the retirement fund?

Mr. TINSLEY. The Postal Service pays the 7 percent.

As to what the source of the 7 percent is, whether it comes from appropriated funds or from earnings through postal rates, I believe the Postal Service would be in a better position to answer that.

Senator FONG. Now, employees pay 7 percent?

Mr. TINSLEY. That is correct.

Senator FONG. That comes out of the employee's salary?

Mr. TINSLEY. That is correct.

Senator FONG. The other 7 percent for all other Government employees is paid by the Congress, the Federal Government?

Mr. TINSLEY. That is correct.

Senator FONG. Now, where would that 7 percent come from as far as the Postal Service is concerned?

Mr. TINSLEY. The same place it comes from now. I do not know whether that is appropriated or whether it is out of income that the Postal Service earns.

The Postal Service probably is in the best position to answer that question.

Senator FONG. I see.

So, when you talk about future payments, you are talking about what in specific terms?

Mr. TINSLEY. We are talking about any unfunded liability created by pay raises, negotiated by the Postal Service.

Senator FONG. So that only takes care of the negotiated pay raises?

Mr. TINSLEY. That is correct.

Senator FONG. What about raises which Congress passes?

Mr. TINSLEY. That will come out of appropriations and out of the general fund of the Treasury.

The Postal Service will not be responsible for increases due to legislative action.

Senator FONG. Now, the bill which is passed by the House says that future, prospectively, the Postal Service would pay \$142 million a year?

Mr. TINSLEY. I do not know how that breaks down, Senator.

Senator FONG. Anyway, it appropriates \$142 million a year?

Mr. TINSLEY. The \$142 million that they are appropriating represents half of \$285 million which is due for 3 years.

Now, I just cannot take and divide that by three and come up with an annual amount because of the way this unfunded liability was created.

A billion of it was created in 1972. About \$677 million of it was created in 1973.

What you have to do is take, as you would with your house payment, your mortgage, and figure up a 30-year payment on that.

I will be glad to provide for the record exactly what the annual payment—

HOUSE BILL

Senator FONG. I am trying to compare the two bills. This is what I am trying to compare, compare the bill the House passed with the bill that you—

Mr. TINSLEY. For the future, this would be the only difference.

Senator FONG. For the future?

Mr. TINSLEY. They would not have to pay this amount I am speaking about, the amortization of this \$2.8 billion.

Senator FONG. For the future, the \$285 million will be paid by the Postal Service?

Mr. TINSLEY. That is correct, whatever the annual payment is.

Senator FONG. Whereas, under the House bill—

Mr. TINSLEY. They would not.

Senator FONG. They would not pay, except the Government would appropriate \$140 million?

Mr. TINSLEY. Yes, if they continue to appropriate.

Senator FONG. I see.

So, in this bill here, we are asking the Postal Service to assume the payment prospectively represented by the \$285 million?

Mr. TINSLEY. Yes, as well as any other payments that are necessary by virtue of any actions they take to create unfunded liability.

About the only actions I can conceive of them taking at the moment that would create unfunded liability are pay raises.

As far as I can see right now, they have no authority to liberalize the Retirement Act. Only Congress can do that.

So, there would be little likelihood of them creating any unfunded liability—

Senator FONG. When in a negotiated pay raise, they will have to take care of it?

Mr. TINSLEY. That is correct.

Senator FONG. Do you see any way by which the Congress can increase the salary of the employees of the Postal Service outside of negotiations?

Mr. TINSLEY. That would be a matter that I would hesitate to speculate on.

Senator FONG. What I am trying to find out is—

Mr. TINSLEY. If Congress did pass legislation that increased the salaries of postal workers, in my judgment that would be the responsibility—

The CHAIRMAN. The odds are that it is not going to happen very often, if at all, because of the new mechanism.

Mr. TINSLEY. If it occurred, that would be the responsibility of Congress to appropriate money to cover that unfunded liability.

The Postal Service would not be responsible for the act of Congress.

Senator FONG. If we reduced the retirement age, that would be the responsibility of Congress?

Mr. TINSLEY. That is correct.

Senator FONG. If we increased the percentage to be paid, that is retirement benefits, say 2, 2.5, or 3 percent, that would be the responsibility of Congress?

Mr. TINSLEY. That is correct.

Senator FONG. So, for all the negotiated salary increases, that would be the responsibility of the Postal Service?

Mr. TINSLEY. That is correct, Senator.

Senator FONG. Thank you.

The CHAIRMAN. Would it be fair to say that a basic contrast between the two measures is that, as Senator Fong has pointed out, H.R. 29 is more liberal, whatever that means—that this compromise measure is in the fiscal sense a bit more responsible?

Mr. TINSLEY. That is correct.

The CHAIRMAN. That is the real question.

Mr. TINSLEY. That is the real question.

The CHAIRMAN. It is a more responsible approach to the problem that we are trying to face up to here.

Therefore, I would not describe the House measure as more liberal, but more loose. It is an abuse of the word "liberal" in that way—liberals are not loose.

Well, it flows from this dialog that we have had here that the real complication that we are trying to come to grips with stems from several factors.

One is that we had an ongoing postal system that was already intricately woven into the Federal fabric in the civil service system. You could not just suddenly cut that loose.

One of the compromises we made in the legislation was that all postal employees at that time in the civil service system would continue to exercise that status, even though the Service itself was being restructured with a slightly different emphasis, is that correct?

Mr. TINSLEY. That is correct, Mr. Chairman.

It would have been impossible, in my judgment, at that point in time to have the Postal Service operate their own retirement system.

The Postal Service would have been in no position to assume the unfunded liability. They would have started out in bankruptcy.

The CHAIRMAN. It is just one of those hard rocks we are up against. At the time we were trying to do the best we could to assist in the transition.

Mr. TINSLEY. That is correct.

The CHAIRMAN. That is all I have, sir.

We appreciate very much your forthright answers.

Mr. TINSLEY. Thank you very much, Mr. Chairman, and Senator Fong.

The CHAIRMAN. We may have some additional questions as we get to wrestling with this, and we will submit them to you.

Mr. TINSLEY. I will be very happy to furnish the committee with anything they desire.

[Prepared statement of Mr. Tinsley follows:]

STATEMENT BY THOMAS A. TINSLEY, DIRECTOR
BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH
UNITED STATES CIVIL SERVICE COMMISSION

BEFORE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE
UNITED STATES SENATE

ON

H.R. 29, 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

May 30, 1974

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I appreciate this opportunity to appear before your Committee to give the
Commission's views on H.R. 29.

In a report to you, dated February 28, 1974, the Commission noted that H.R. 29
would not apply to problems including existing unfunded liability and strongly
supported a revised draft proposed by the Postal Service which would remedy
this situation. Mr. Chairman, with your permission, I would like to request
that this report be incorporated in the record of the Committee.

Before discussing the Commission's position, I would like to briefly describe
the problems which gave rise to proposed solutions such as H.R. 29 and simi-
lar proposals including Postal Service's draft bill.

The Postal Reorganization Act of 1970 provides for the continued participation of postal employees in the Civil Service Retirement System.

However, this law does not contain any provision requiring the Postal Service to be responsible for financing any increase in the unfunded liability of the Retirement Fund which arises from pay increases granted by the Postal Service. The aim of H.R. 29 is to correct this deficiency. I would like to emphasize that the Commission is in accord with this aim. In fact, in letters dated March 28, 1973, we submitted legislation along similar lines for the consideration of the Congress.

H.R. 29 would require the Postal Service to reimburse the Civil Service Retirement and Disability Fund for increases in unfunded liability resulting from postal pay increases which are either negotiated in collective bargaining agreements in accordance with title 39 of the United States Code or effected by Postal Service administrative action. However, because H.R. 29 does not contain an effective date provision, the effect of its enactment would be to relieve the Postal Service of unfunded liability payments flowing from collective bargaining agreements with the postal unions signed in July, 1971, and July, 1973, respectively. Although enactment of H.R. 29 would have this effect, the Postal Service is willing to assume responsibility for the full payment of any unfunded-liability-cost to the Retirement Fund. This willingness is reflected in the draft bill submitted by Postal Service as a proposed substitute for H.R. 29. Parenthetically, a copy of the Postal Service's revised draft bill was attached to the Commission's report of February 28, 1974.

Let me briefly discuss the provisions of this revised draft. The draft would require the Postal Service to pay unfunded liabilities attributable to increases in postal salaries given since July 1, 1971. These payments, in amounts determined by the Commission, would be made in 30 equal annual installments, with the first payment due at the end of the fiscal year in which a pay increase is effective.

To soften the impact of these 30 annual payments on the postal ratepayer, the Postal Service would not be required to pay the June 30, 1972, June 30, 1973, and June 30, 1974 unfunded liability payments attributable to pay increases granted by the Postal Service prior to July 1, 1973, until Congress appropriates funds to the Postal Service for that purpose. These payments result from the 1971 collective bargaining agreement and amount to approximately \$285 million including interest through June 30, 1974.

Because of the provision that the Postal Service will assume unfunded liabilities attributable to increases in postal salaries, the draft would eliminate the requirement in title II of the Treasury, Postal, and General Government Appropriation Act, 1974 that the Postal Service transfer about \$142.3 million to the Civil Service Retirement and Disability Fund in payment of part of these liabilities.

In essence, the net effect of these provisions of the draft would be to make the Postal Service responsible for all unfunded liabilities resulting from the first and second bargaining agreements and such future agreements,

except that Postal Service would not be required to pay the installments due through June 30, 1974 attributable to the first collective bargaining agreement until Congress appropriates funds for that purpose.

The draft would also repeal section 1005(d) of the Postal Reorganization Act which requires the Postal Service to reimburse the Retirement Fund for administrative expenses attributable to postal employees. This requirement has, in effect, resulted in a double payment by Postal Service of its share of the administrative costs. This is because the normal cost which is the ultimate standard for contributions already contains an allowance for administrative expenses.

At this point let me summarize the Commission's position. While we are in accord with the aim of H.R. 29, we prefer the draft substitute version of the Postal Service. We believe that their draft represents a logical, equitable solution to several problems inherent in the current situation. Accordingly, we strongly support Postal Service's substitute draft bill as submitted with our report to you dated February 28, 1974.

As a final remark, I would like to make a suggestion regarding this draft. In section 3, I believe that the language "the payments due June 30, 1972, June 30, 1973, and June 30, 1974" should be substituted for the language in the 2nd and 3rd lines of that section "the first three annual installment payments". This change would clarify the nature of the unfunded liability payments which Postal Service would not be required to pay until Congress appropriates funds to the Postal Service for that purpose.

I thank you for the privilege of appearing this morning. I will be happy to answer any questions.

The CHAIRMAN. The next witness is Ralph W. Nicholson, who has been before us many times, the old and the new.

Ralph, we can proceed pretty much in the same way. We do not need to listen to your statement since we have read it already, and I think we are really interested in boring in on the pending legislation, if that is permissible, unless you have some very exceptional and unusual statement you wish to toss at us in order to cleanse our own thoughts and prepare us for a softer approach.

STATEMENT OF RALPH W. NICHOLSON, SENIOR ASSISTANT POSTMASTER GENERAL, FINANCE GROUP, U.S. POSTAL SERVICE; ACCOMPANIED BY RICHARD GOULD, ASSISTANT POSTMASTER GENERAL, FINANCE DEPARTMENT; AND ALLEN SANDERS, ASSISTANT GENERAL COUNSEL

Mr. NICHOLSON. Mr. Chairman and Senator Fong, there are one or two thoughts that I would like to comment on.

I would like my full statement to be inserted in the record.

The CHAIRMAN. The full statement will appear intact.

You proceed now with whatever emphasis you tend to lend to it.

Mr. NICHOLSON. I would like to introduce my colleagues.

On my left is Mr. Richard Gould, Assistant Postmaster General, Finance Department. And on my right is Mr. Allen Sanders, Assistant General Counsel of the Postal Service.

The two things I would like to comment on in a general way are, one, a continuation, or to the extent I can, a supplementing of the line of questioning Mr. Fong had about the self-sustaining nature of the Postal Service.

I am very impressed and very pleased that Mr. Tinsley had such a knowledge of the Postal Service. It seems to me to be above and beyond the call of his duty, and I am very pleased to see that other members of the Government do have as much understanding of the Postal Service as Mr. Tinsley has.

The second thing that I might comment on is the financial impact of this as viewed from the Postal Service point of view, which in a way, very intimate way, is related to your line of questioning, Senator Fong.

I believe we can get to the kinds of questions you had in your mind if I say flatly that as a matter of principle, the Postal Service believes that the total cost of retirement of postal employees is a Postal Service responsibility.

We do want and intend to stand on our own feet in that respect as well as all others.

The reason we have the question before us is that almost our entire source of revenue is from the current users of the mail, the ratepayers. We believe it is correct to charge today's ratepayers and tomorrow's ratepayers for those retirement costs of Postal employees.

But we do not believe that it is proper, fair, equitable to charge current ratepayers with prior years of expenses.

Thus, we could not include the cost of those prior years in our current rate base, unfairly passing those prior years' costs on to the current ratepayers.

The unfunded liability for years prior to the time we can take action in our own budget is a lump of cost that is unassimilatable by the Postal Service.

Senator FONG. Are you saying that 3-year costs, that should be borne by Government because you were not able to take care of it?

Mr. NICHOLSON. That is correct.

We did not become aware in our thinking that it was a Postal Service obligation until the relatively recent past.

At the time those years were running, we had before us the Comptroller General's opinion that this was an obligation of the General Fund of the Treasury.

The CHAIRMAN. Because they were under the Civil Service?

Mr. NICHOLSON. That is correct.

And at the time the Postal Reorganization Act took place, the laws then on the books left the unfunded liability as the responsibility of the General Fund of the Treasury. So we did our budgeting in terms of the then current law, making no provision to charge the then current ratepayers with that share of the cost.

The CHAIRMAN. That was not peculiar to the postal employees alone. I mean, that was the general policy of the Government as a whole?

Mr. NICHOLSON. That was Government policy.

Senator FONG. In other words, what you are saying is that the mail users should have paid for that?

Mr. NICHOLSON. Mail users at that time should have paid for that.

Senator FONG. Now, 3 years have passed, and you have not assessed them the cost of that, so the Government should take care of it?

Mr. NICHOLSON. That is correct.

Now, with respect to the two bills, the House passed bill and the substitute proposal before you, Chairman McGee is absolutely correct.

The House passed bill has much lesser impact on the Postal Service in the way of costs than the proposed substitute that we authored, and which we do agree to as a principle and as the correct approach to this unfunded liability situation.

The only reason for the delay, to say this again, is that we cannot on a current basis make a correct charge to the postage payer and, in doing so, include the prior year payments.

It is only to get a correct starting point here at which we can pass an appropriate annual amount of cost on through postage rates, and it is the need for relief for the years that have gone by during which time we had no reason to take action to the contrary that that unfunded liability, approximately \$285 million, accumulated.

Senator FONG. Then what we should have done in 1969 was to make that very clear?

Mr. NICHOLSON. Yes.

The CHAIRMAN. Perfectly clear.

Senator FONG. But we did not make it clear?

Mr. NICHOLSON. Quite the contrary.

The Comptroller General made it clear that it was not a Postal Service obligation.

Senator FONG. And now you are changing that?

Mr. NICHOLSON. We propose to, in concert with all other interested parties, the Congress willing, to clarify through legislation that the Postal Service has the entire responsibility for the total cost of the

retirement funds for postal employees insofar as those costs are affected by actions that the Postal Service takes.

Mr. Tinsley was quite correct in pointing out that in the event Congress, let us say, passed legislation that caused the calculation of the amount of annual retirement payments be based on the highest single year of employment, this would cause the payments to go up as a result of actions outside the control of the Postal Service.

Senator FONG. I see.

Mr. NICHOLSON. Any action the Postal Service takes that contributes to the size of the unfunded liability, the Postal Service will be responsible for it.

Senator FONG. You cannot conceive of a situation in which Congress would be injecting itself into the salary scheme?

Mr. NICHOLSON. No, sir, I do not. I would hope not.

Senator FONG. It is only in the liberalization of the retirement system?

Mr. NICHOLSON. If the whole structure is liberalized, and the Postal Service is not a party to the action so liberalizing it, we would not take the responsibility for the increase in the unfunded liability.

Senator FONG. So, despite the Comptroller's opinion, you are saying you are willing to take the responsibility of payment?

Mr. NICHOLSON. Yes, sir.

Or, to put it still a different way, the Comptroller General could only interpret the laws as they were on the books.

I think what we are now saying is the laws then on the books were not adequate to deal with the very particular situation caused by the creation of the new Postal Service, subsequent to the passage of the law that generally dealt with that situation.

Senator FONG. So, what you are saying now is that it would be fairer if you took the responsibility of taking care of that cost?

Mr. NICHOLSON. It would be fairer.

The CHAIRMAN. Unusual, is it not?

Senator FONG. Unusual.

The CHAIRMAN. Very commendable. We ought to highlight that testimony.

Mr. NICHOLSON. I hasten to add while it would also be more fair, it is also more costly.

I would like to talk just a bit about the amount of cost that we are dealing with here.

First, in that connection, I would like, because we are sensitive about this, to indicate the nature, the real nature of the congressional appropriation action that causes us on June 30 to transfer to the Civil Service Commission \$142,333,500. This was not appropriated to us. Only the obligation to transfer was imposed upon us by the Appropriations Act of 1974.

The amount of funds appropriated to us was pursuant to the three types of appropriations called for in the Postal Reorganization Act, namely public service, revenue foregone, and certain transitional appropriations.

The funds supplied were the funds necessary for those three purposes.

The Appropriation Act then went on to say that of these funds appropriated, \$142 million is available only for transfer to the Civil

Service Commission. Thus, if that transfer had to be made now, actually the funds that we should have had for the three stipulated purposes would be \$142 million short.

This is a very serious financial drain on us should that situation come into being.

Senator FONG. In other words, the money which we said you would get as a subsidy, we earmarked part of that and gave it to civil service?

Mr. NICHOLSON. Exactly.

The same money was being used for two purposes, to the extent of \$142 million.

Now, as to the magnitude of this cost—

The CHAIRMAN. It is robbing Ted to pay Bob.

Mr. NICHOLSON. Ted Klassen and Bob Hampton, yes.

I think, in discussing cost, it is helpful to think of a series of threads.

Thread No. 1 traces to labor contract No. 1—

Senator FONG. Before you go into that, may I ask you, the 7 percent which the Government pays for all other Federal employees, who pays that now?

Mr. NICHOLSON. In the case of the Postal Service, the Postal Service matches the amount withheld from the employees' salaries and pays it out of the Postal Service fund.

Senator FONG. I see.

So the Federal Government is not paying that 7 percent?

Mr. NICHOLSON. That is correct.

Senator FONG. Thank you.

Mr. NICHOLSON. The Federal Government is not.

The users of the Postal Service, through their postage payments, are paying that cost of retirement.

Senator FONG. So, employees pay 7 percent and Postal Service pays 7 percent?

Mr. NICHOLSON. That is correct.

The CHAIRMAN. I stumbled upon a mechanism that might hold some promise for helping you to solve these problems, Ralph.

I was in a little Wyoming community of Dubois over the weekend, where they initiated a Pony Express mail delivery for the summer months. They discovered in the original Pony Express that the charge was \$5 per half ounce.

So I would think that kind of charge might bail you out rather rapidly.

Mr. NICHOLSON. Mr. Gould has some horses, and I think we will put him into business.

The CHAIRMAN. You do not bet on the horses. This is paying for the mail being carried.

Go ahead. I did not mean to interrupt.

Mr. NICHOLSON. This whole subject is one that boggles the mind.

If I can establish that there is a series of payments that flow from contract No. 1, the first contract with the unions, and similarly there will be a series of payments following from contract No. 2, and those are the only two contracts that are real at this time. But one can postulate that there will be a contract No. 3, contract No. 4, and contract No. 5 through the series of years in the future.

So, let me go back to contract No. 1.

The pay increases resulting from that contract, are the actions that we are now talking about. That is the unfunded part of the liability, the prior year part of the liabilities.

In the case of contract No. 1, we had a pay increase in 1972, and another in 1973.

The CHAIRMAN. By that, you mean everybody but the Congress?

Mr. NICHOLSON. That is right.

That was, the postal employees received those pay increases.

The total cost of unfunded liability following from the first step of that contract No. 1 is \$1,890 million. If my figures differ from Mr. Tinsley's figures, his figures are correct. The Civil Service Commission determines the amounts and notifies us.

But according to our figures, the first step of the first contract created an unfunded liability cost of \$1,890 million.

That contract No. 1 also had a second step, effective in 1973, and the cost of that is \$1,260 million.

So, over a 30-year period, contract No. 1 will cost \$3,150 million in payments for unfunded liability.

Because we could not, at the time, take the action we now see as proper, there are installments No. 1, 2, and 3 due on the first step, and installments Nos. 1 and 2 due on the second step of contract No. 1.

That is water over the dam. The time has passed. We cannot include that in our current costs.

We believe that we, as a financial necessity, must be relieved of that cost.

Senator FONG. This is \$285 million?

Mr. NICHOLSON. Exactly. It comes to \$272,958,000.

Senator FONG. For 30 years?

Mr. NICHOLSON. No, just for 3 years, plus interest of \$11,707,000, because payment is past due, which makes a total of \$284,665,000 of past due payments, which we would anticipate making on next June 30, which would bring us current with all those prior year payments.

Senator FONG. Now, you are asking that the Federal Government pick up \$285 million a year, or for the full 3 years?

Mr. NICHOLSON. That is the total payment covering the 3 years of payments now overdue.

Senator FONG. I see.

Then, after that, there will be no other payments?

Mr. NICHOLSON. That is correct.

The CHAIRMAN. Looked at optimistically as we can, they are asked to pay less than \$285 million?

Mr. NICHOLSON. Yes, \$284.7. I would like to underline the fact we are asking for reimbursement of these first 3 years of payments, that we will pick up the next 27 years of payments; whereas, the House passed bill would relieve us of all 30 years of payments.

The reason we asked for this relief is simply because we have no practical way in fairness to include it in our cost for ratemaking purposes on the current basis.

Senator FONG. You are really asking that the Federal Postal Service carry itself?

Mr. NICHOLSON. Absolutely.

Now, if I may go on just a bit more—

Senator FONG. May I ask, say this total bill here is really one of paying for the \$285 million?

Mr. NICHOLSON. This bill would authorize our seeking an appropriation of \$284.665 to reimburse the postal fund for prior year payments which, under existing law, are the obligations of the General Fund.

Senator FONG. And to make it clear that from now on, you will pick it up?

Mr. NICHOLSON. The bill is explicit in that respect.

Senator FONG. So it does two things.

It asks Congress to pay \$284 million, whatever payment you wish to make, and, second, from now on you will pick up future payments?

Mr. NICHOLSON. Absolutely correct.

Senator FONG. Whereas, if we did not do anything, Congress would still be in a position, under the Comptroller General's opinion, to pick that up?

Mr. NICHOLSON. Yes.

But I fear as a practical matter each year we would find that funds intended for other purposes would be diverted to this purpose so that we would wind up paying it with no legal obligation to collect it from the ratepayers.

This legislation will formally legitimize our including this cost in our rate base—in our cost base for ratemaking purposes.

Senator FONG. Otherwise, it would be a contest?

Mr. NICHOLSON. Otherwise, it might be contested.

Now, still further, continuing on costs, I talked only about those unfunded liabilities stemming from contract No. 1.

We since have executed contract No. 2, effective last July 21.

There are unfunded liability costs created by contract No. 2. We are picking those up on a current basis, whereas the House passed bill, since it has no effective date, would have relieved us of the cost of contract No. 2.

So, in 1974, we will also be making payment toward the unfunded liability, pursuant to the costs of contract No. 2. That is an additional \$59,433,000—

The CHAIRMAN. How many stages are there in contract No. 2?

Mr. NICHOLSON. There are two stages.

The CHAIRMAN. There are five stages in contract No. 1?

Mr. NICHOLSON. No, sir. There are just two.

The CHAIRMAN. Two?

I thought you broke it down—

Mr. NICHOLSON. Yes, sir.

Step No. 1 required a payment in 1972, another one in 1973, and another one in 1974.

The CHAIRMAN. That was all the same step?

Mr. NICHOLSON. It was all pursuant to the first step of the contract, yes.

So we had three overdue payments for the first step, two overdue payments for the second step, for a total of five payments that were overdue.

The CHAIRMAN. That is where I was confused. Those were payment rather than steps?

Mr. NICHOLSON. There will be another step in 1975 of contract No. 2.

In 1975, if I can use that as a trial sample year, we will have the fourth installment on the 1972 pay increase. We will have the third installment of the 1973 pay increase, the second installment of the 1974 pay increase, and the first installment on the 1975 pay increase.

And the total payment due at the end of 1975 is \$228 million.

The 30-year cost of those steps is \$6,850 million.

Now, if you will assume that there is an increment of pay increases each year, and for the first 29 years we are adding increments each year and dropping none, if those increments ran at the rate they are running, something over \$50 million a year, in the 30th year we would have—what is that—\$1,500 million annual payments as the cost to the Postal Service of the unfunded liability.

So that as we go out in time each year, our cost of personnel, in addition to wages and other fringe benefits, will include a \$1.5 billion unfunded liability contribution that we accept as a proper obligation of the Postal Service, and will be a cost in the rate base for ratemaking purposes.

So this is a very significant thing we are talking about, financially as well as in human terms.

It is far greater than the \$285 million we are talking about for these 3 prior years.

The CHAIRMAN. Can you shed any light on why the OMB itself shifted its position on this whole question?

Not very many months ago, it unalterably opposed to this approach, or it seemed to be.

Mr. NICHOLSON. OMB—I hope this is the case, and I believe this is the case—OMB has a continually increasing awareness of some of the specific and practical problems of the Postal Service and ratemaking process and ratemaking machinery.

They, of course, recognize that our current costs for ratemaking purposes were filed with the Postal Rate Commission last September. Those figures are set in concrete. They did not include the cost of the unfunded liability.

There was no way that we could amend the case without making a more severe dislocation than otherwise, hopefully, would be the case.

Therefore, OMB ultimately concluded that there was no practical or fair way for the Postal Service itself to cover those prior year costs except by diminishing its own assets.

The assets themselves have been eroding all too steadily so that the financing of that prior year cost through the consumption of Postal Service assets was ultimately agreed to by the Office of Management and Budget as not a desirable thing.

The CHAIRMAN. I have no further questions this morning.

We may have two or three as we review the testimony that may need to be spelled out a bit further, but we will get those down to you as that becomes necessary.

Senator Fong?

Senator FONG. With an appropriation of \$285 million minus, you will then be on your way?

Mr. NICHOLSON. Yes, sir.

Senator FONG. You will not come back for anything more on the retirement system?

Mr. NICHOLSON. No, sir.

The CHAIRMAN. Unless Congress gets into the act.

Senator FONG. That is different.

Mr. NICHOLSON. I believe in that case the Civil Service Commission would be back, but I do not believe the Postal Service would.

The CHAIRMAN. Thank you very much.

You have been very helpful.

If you get any further thoughts that would add enlightenment to us on this pending measure or corrections or adjustments or modifications, do not hesitate to get them up here before us.

Mr. NICHOLSON. Thank you. We will. In fact there is one other thing I'd like to mention, and that is the matter of urgency. A substantial payment to the Civil Service Commission is due June 30, 1974. Enactment of the amended version of H.R. 29 prior to that time would greatly clarify and simplify this whole question. Therefore, we respectfully ask for prompt action to resolve this matter.

The CHAIRMAN. Thank you very much.

[Whereupon, at 11:15 a.m., the subcommittee adjourned.]

[Prepared statement of Mr. Nicholson follows:]

Statement of Ralph W. Nicholson
Senior Assistant Postmaster General, Finance Group
Before the Senate Committee
on Post Office and Civil Service

May 30, 1974

Mr. Chairman and Members of the Committee:

I appreciate this opportunity to testify concerning the proposed legislation to require the Postal Service to reimburse the Civil Service Retirement and Disability Fund for the unfunded liability in the Fund caused by postal pay increases. Accompanying me are Richard Gould, Assistant Postmaster General, Finance Department and Allen Sanders, Assistant General Counsel.

Before discussing the particulars of the draft bill, which was transmitted to you on February 25, 1974, as a substitute for H.R. 29 as passed by the House, I should like to discuss in general terms the matter of the unfunded liability of the Retirement Fund to the extent relevant, and to touch briefly on some of the events that led up to introduction of H.R. 29.

While the Civil Service Commission is best qualified to explain how an unfunded liability in the Civil Service Retirement and Disability Fund is created by pay increases for Federal employees, it is my understanding that such liability comes about in the following manner. The Civil Service Retirement System, which came into existence in 1920, was structured so that on an actuarial basis

the normal cost of the System theoretically would be met by withholding of a percentage of an employee's salary (currently 7%), an equal amount contributed by the employing agency, with the total being invested at interest. However, as you know, any increase in compensation raises the high-three average. The law does not require the amount of the withholding to be increased so that the employee and the agency will pay for the increased cost of the higher annuity the employee receives when past service is credited at the high-three average salary rate. Withholding for such past service -- made on the basis of the lower salary rate then in effect -- is clearly insufficient.

Because of this problem, among others, and at the urging of the Civil Service Commission, Congress came to the rescue in 1969, enacting Public Law 91-93, which, among other things, amended 5 U.S.C. 8348 by adding a new subsection (f). In essence, this new provision authorized appropriations from the Treasury to cover the unfunded liability caused by pay increases for Federal employees. The provision authorizes appropriations in 30 equal annual installments to cover such unfunded liability.

This was the law on the book regarding payment of unfunded liability at the time of enactment of the Postal Reorganization Act. The Postal Reorganization Act adopted the principle that the Postal Service should

be generally self-sustaining; however, payment of unfunded liability resulting from postal pay increases was recognized in the legislative history of the Act as an exception to the self-sustaining principle. The General Accounting Office, in its opinion B-130150 dated June 20, 1972, agreed with this viewpoint of the Postal Service.

The legislative history of the Postal Reorganization Act seems to indicate that the Postal Service was excused from making up the unfunded liability resulting from postal pay increases because of the magnitude of the liability and its ultimate effect on postal ratepayers. Imposing this liability on the Postal Service eventually will involve huge amounts of money to be paid by the Postal Service into the Retirement Fund each year. We have attached a table giving an estimate of the payments in 1974 and 1975 and the 30-year total which can be expected to result from enactment of the substitute draft bill. The table deals only with pay increases resulting from the first two labor contracts agreed to by the Postal Service and the unions. The annual payments and total cost, of course, will increase with each additional pay increase that may occur in the future.

Although the size of these payments will become truly significant in the future, we agree that these are properly costs of Postal Service operations and should be borne by the Postal Service, since we operate under a mandate

to set rates so that costs and revenues are equal as nearly as practicable. 39 U.S.C. 3621. Furthermore, if these costs are not borne by the Postal Service, they constitute, in effect, a hidden subsidy to all mailers and must be paid for by taxpayers.

However, the Postal Service strongly feels that these costs are proper costs of postal operations on a prospective basis only. Present ratepayers should not be required to pay for liabilities attributable to past operations. Thus, postal ratepayers should not be required to make up retroactively the unfunded liability installment payments for fiscal years 1972, 1973 and 1974 amounting to approximately \$285 million. The Office of Management and Budget and the Civil Service Commission agree with this. However, title II of the Treasury, Postal Service and General Government Appropriation Act, 1974, P.L. 93-143, requires the Postal Service to transfer \$142,333,500 (approximately one half of the \$285 million) to the Civil Service Retirement and Disability Fund. At the time this requirement was decided upon, it was indicated a like amount would be set aside in the 1975 Appropriation Act so as to reach the \$285 million total, thus charging the Postal Fund for all of these prior years of cost.

On the other hand, H.R. 29 as passed by the House, perhaps goes too far in the other direction. As passed by the House on May 7, 1973, H.R. 29 has no effective date provision. Accordingly, had it been enacted before the second collective bargaining agreement was signed in July 1973, it would have relieved the Postal Service of all unfunded liability payments flowing from the first collective bargaining agreement. This is what the House intended. However, if H.R. 29 were enacted now, after the second collective bargaining agreement, it would relieve the Postal Service of all unfunded liability payments resulting from both the first and second collective bargaining agreements, which would be contrary to the intention of the House.

We believe the Postal Service's substitute draft bill resolves these questions on the unfunded liability in a way that would be equitable both to postal ratepayers and the public. It would provide in section 3 an effective date of July 1, 1971, but would provide that we would not be required to pay the first three annual installments attributable to the first collective bargaining agreement, the approximately \$285 million, until funds are appropriated to the Postal Service for that purpose. In addition, section 3 would repeal the requirement in title II of the Appropriation Act, P. L. 93-143, that the Postal Service transfer the approximately \$142 million

to the Civil Service Fund, since these funds represent one half of the \$285 million which is to be paid from appropriated funds. Because the date for transfer (June 30, 1974) of the \$142 million is only 30 days away, we strongly urge the Committee to act quickly on this legislation.

The substitute draft bill would also repeal retroactively the requirement in the last sentence of section 1005(d) of title 39 that the Postal Service pay the administrative costs of the retirement program as it relates to postal employees. The rationale of this, as explained by the Civil Service Commission, is that payment of these costs by the Postal Service actually results in dual payment of administration costs, since administration costs are already covered by the contributions made by each employee and agency to the Retirement Fund.

This concludes my prepared statement. Thank you, Mr. Chairman.

USPS PAYMENT TO CSC RETIREMENT
AND DISABILITY FUND

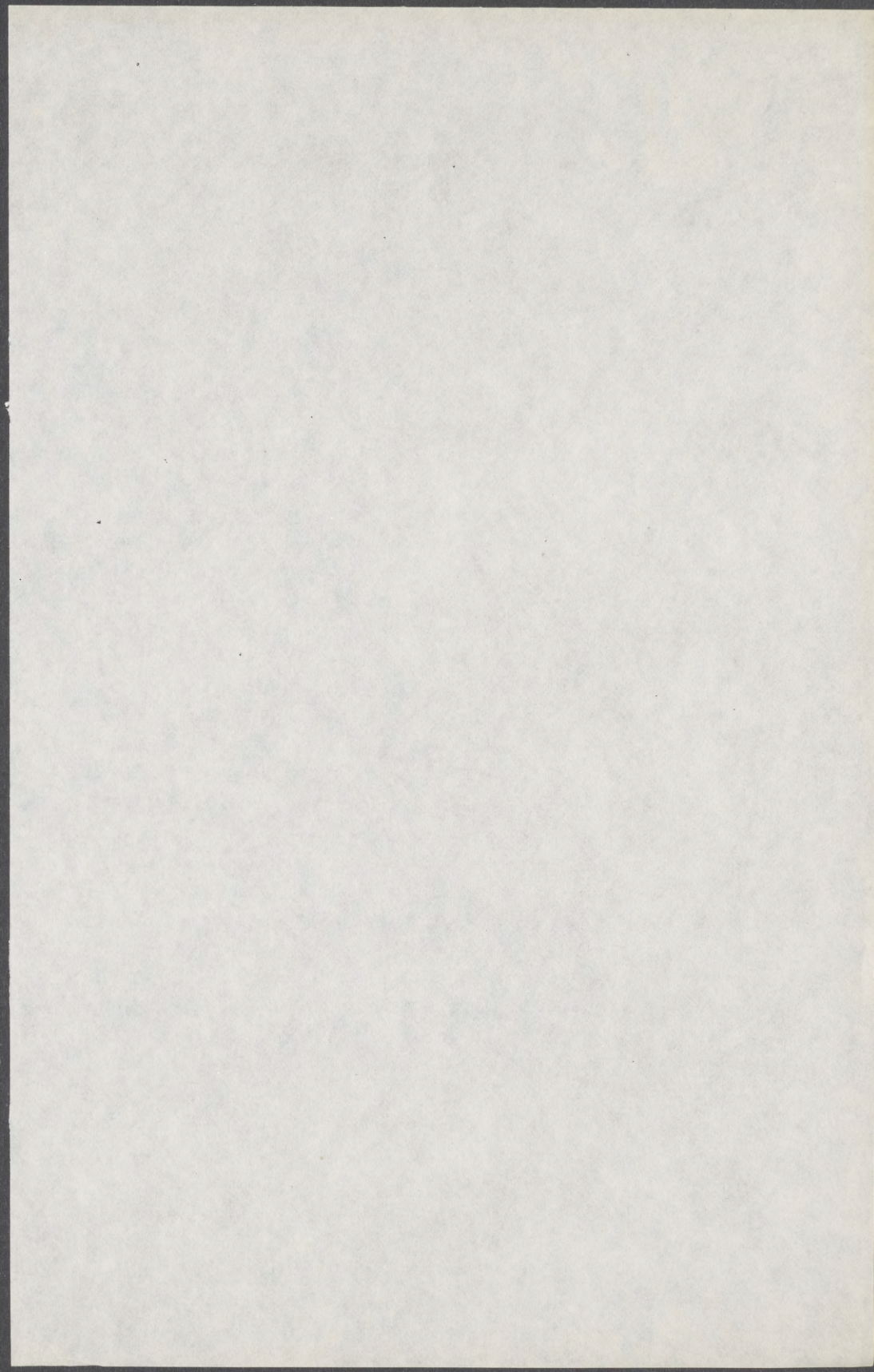
(Based on payment due at end of year
in which pay increase was effective)

<u>Year of Payment</u>	<u>Year of Pay Increase</u>	<u>Payment Number</u>	<u>CSC Cost Estimate</u>	<u>30-year Cost</u>
			(\$ in thousands)	
1974 - prior	1972	1	62,990	1,890,000
years	1972	2	62,990	
	1972	3	62,990	
	1973	1	41,994	1,260,000
	1973	2	41,994	
			272,958	
		Interest	11,707	
1974 - prior				
years total			284,665	3,150,000
1974-Current	1974	1	59,433	1,783,000
1974-Grand total			<u>344,098</u>	<u>4,933,000</u>
1975	1972	4	62,990	1,890,000
	1973	3	41,994	1,260,000
	1974	2	59,433	1,783,000
	1975	1	63,900	1,917,000
1975 - Grand total			<u>\$ 228,317</u>	<u>\$ 6,850,000</u>

STATE OF NEW YORK DEPARTMENT OF TAXATION

(Based on payment of tax on return)
 In the year ending December 31, 1972

Year of Payment	Year of Taxable Income	Estimated Tax	Actual Tax
1972	1972	1,250.00	1,250.00
1971	1971	1,250.00	1,250.00
1970	1970	1,250.00	1,250.00
1969	1969	1,250.00	1,250.00
1968	1968	1,250.00	1,250.00
1967	1967	1,250.00	1,250.00
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1903	1903	1,250.00	1,250.00
1902	1902	1,250.00	1,250.00
1901	1901	1,250.00	1,250.00
1900	1900	1,250.00	1,250.00



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