

POSTAL SERVICE FINANCIAL IMPROVEMENT ACT OF 2016

DECEMBER 8, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 5707]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 5707) to amend title 5, United States Code, to provide for certain index fund investments from the Postal Service Retiree Health Benefits Fund, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## COMMITTEE STATEMENT AND VIEWS

## PURPOSE AND SUMMARY

H.R. 5707, the Postal Service Financial Improvement Act of 2016, would require the Secretary of the U.S. Department of the Treasury to invest part of the Postal Service Retiree Health Benefits Fund (Fund) in index funds modeled after the asset allocation investment fund established by the Federal Retirement Thrift Investment Board (FRTIB) with the longest investment horizon. H.R. 5707 would limit total investments from the Fund into index funds to 25 percent of the total value of the Fund for the first five years after enactment of H.R. 5707 and would limit investments to 30 percent of the Fund thereafter. H.R. 5707 would require that all money from the Fund invested in index funds be managed by one or more qualified professional asset managers.

## BACKGROUND AND NEED FOR LEGISLATION

Under current law, the U.S. Postal Service is required to prefund its accrued liabilities for retiree health care expenses. While the Postal Service will default on its sixth straight annual payment into the Postal Service Retiree Health Benefits Fund (Fund), the Fund held \$50.35 billion as of September 30, 2015.<sup>1</sup> Over the last three fiscal years (2013–2015), the Postal Service earned an average of 3.43 percent in interest on those assets.<sup>2</sup>

The Fund achieved this relatively low rate of return because current law requires Fund assets to be invested in long-term, special-issue U.S. Treasury securities with maturities of up to 15 years.<sup>3</sup> These securities currently have interest rates that vary from 1.38 percent to 5 percent, and the average interest rates have been in decline over the last several years.<sup>4</sup> Importantly, while Treasury securities have proven to be reliable investments, rates of return on these investments have not kept pace with the growth of retiree health care liability. In fiscal year 2015, the retiree health care liability grew by \$7.422 billion, but the Fund earned only \$1.495 billion from its investments in U.S. Treasury securities.<sup>5</sup>

H.R. 5707 seeks to improve the investment return for Fund assets by directing the Secretary of the Treasury to invest 25 percent of the Fund's assets in index funds modeled after the Lifecycle funds (L funds) developed by the FRTIB for the Thrift Savings Plan (TSP). L funds are tailored to specific retirement time horizons, with individual funds dedicated to specific decades, and are designed to invest more conservatively as the target time horizon approaches. At every stage, L funds are designed to be highly diversified to limit volatility. Under this framework, the current long-term fund, the L2050 fund, earned an average return of 9.83

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<sup>1</sup>U.S. Postal Serv., Annual Report on Form 10-K For the Fiscal Year Ended September 30, 2015, at 26 (Form 10-K) (Nov. 13, 2015) available at <http://about.usps.com/who-we-are/financials/10k-reports/fy2015.pdf>.

<sup>2</sup>Staff calculation based on U.S. Postal Serv., Annual Report on Form 10-K For the Fiscal Year Ended September 30, 2015, at 27 (Form 10-K) (Nov. 13, 2015) available at <http://about.usps.com/who-we-are/financials/10k-reports/fy2015.pdf>; U.S. Postal Serv., Annual Report on Form 10-K For the Fiscal Year Ended September 30, 2013, at 39 (Form 10-K) (Nov. 15, 2013) available at <http://about.usps.com/who-we-are/financials/10k-reports/fy2013.pdf>.

<sup>3</sup>*Supra* note 1, at 27.

<sup>4</sup>*Id.*

<sup>5</sup>*Id.*

percent over fiscal years 2013–2015, nearly three times the rate of return received by the Postal Service from its current investments.<sup>6</sup>

Under H.R. 5707, the Secretary will be tasked with utilizing one or more qualified professional asset managers to invest as soon as practicable 25 percent of the Fund in index funds modeled after the latest target date L fund, currently the L2050 fund. To ensure proper oversight, the Secretary is required to secure an independent qualified public accountant to audit the financial statements of the investments and report to Congress on the management of the investments annually.

Additionally, in selecting asset managers and developing investment guidelines, the Secretary is directed to consult with the Postal Service Retiree Health Benefits Fund Investment Committee (Investment Committee). The Investment Committee, which would be established by H.R. 5707, would be comprised of the Secretary, the Chairman of the Postal Service Board of Governors, the Chairman of the FRTIB, and two members appointed by the President with backgrounds in the management of financial investments to represent the interests of Postal Service employees and annuitants. Five years after the date of enactment of this legislation, the Investment Committee would have the discretion to raise the investment cap from 25 percent up to a maximum of 30 percent.

Allowing the Fund to invest in private securities in this manner would make this Fund's investments similar to the investments of other large federal sector benefit programs, such as the National Railroad Retirement Investment Trust (NRRIT), which covers railroad employee retirement costs. While NRRIT investment was previously limited to U.S. government securities, the Railroad Retirement and Survivor's Improvement Act of 2001 authorized the NRRIT to diversify its investment strategy.

#### LEGISLATIVE HISTORY

H.R. 5707, the Postal Service Financial Improvement Act of 2016, was introduced by Rep. Stephen Lynch (D-MA) on July 11, 2016, and referred to the Committee on Oversight and Government Reform. On July 12, 2016, the Committee ordered the bill favorably reported without amendment by voice vote.

#### SECTION-BY-SECTION

##### *Section 1. Short title*

Designates the short title of the bill as the “Postal Service Financial Improvement Act of 2016.”

##### *Section 2. Investment of the Postal Service Retiree Health Benefits Fund*

Amends section 8909a(c) of title 5, United States Code, by making the current 8909a(c) paragraph one and adding a second paragraph.

Subparagraph (A) of paragraph (2) requires the Secretary of the Treasury (Secretary) to invest 25 percent of the Postal Service Retiree Health Benefits Fund into index funds modeled after the

<sup>6</sup>Staff calculation based on Fed. Retirement Thrift Investment Bd., *Share Price History*, available at <https://www.tsp.gov/InvestmentFunds/FundPerformance/index.html>.

Thrift Savings Plan lifecycle funds, which are established under the parameters of subparagraphs (B), (C), (D), and (E) of section 8438(b)(1) of title 5, United States Code. In doing so, the Secretary is required to consult with one or more qualified professional asset managers.

Subparagraph (B) of paragraph (2) requires the Secretary to consult with the “Postal Service Retiree Health Benefits Fund Investment Committee” when taking all actions described in subparagraph (A).

Subparagraph (C) of paragraph (2) establishes the “Postal Service Retiree Health Benefits Fund Investment Committee” (“Committee”), which will consist of: (1) the Secretary; (2) the Chairman of the Board of Governors of the Postal Service; (3) the Chairman of the Federal Retirement Thrift Investment Board; and (4) two presidentially-appointed members to represent the interests of the Postal Service employees and annuitants. The two presidentially appointed members will serve three-year terms. This subparagraph requires that these members have experience and expertise in managing financial investments and Postal Service employee benefits. This subparagraph also requires the Committee to uphold the same fiduciary duty required with respect to the Thrift Savings Fund.

Subparagraph (D) of paragraph (2) requires an annual audit of the financial statements pertaining to the investments made under subparagraph (A). The Secretary must ensure that the audit is performed by a qualified public accountant. The Secretary shall also submit an annual management report to Congress, including a report of the aforementioned audit. The Secretary’s annual management report shall also include the audit report, a statement of financial position, a statement of operations, a statement of cash flows, a statement on internal accounting and administrative control systems, and any other comments necessary to inform Congress about the operations and financial condition of the investments.

Subparagraph (E) of paragraph (2) defines specific terms used throughout paragraph 2. “Specified percentage” means 25 percent of the current available portions—portions not immediately required to pay for retiree health care—of the Postal Service Retiree Health Benefits Fund. After five years, the Committee can specify a higher percentage of the Fund, but that percentage cannot exceed 30 percent. The subparagraph also defines a “qualified professional asset manager” with the meaning given to that term in section 8438(a) of title 5, United States Code.

#### EXPLANATION OF AMENDMENTS

No amendments to H.R. 5707 were offered or adopted during Full Committee consideration of the bill.

#### COMMITTEE CONSIDERATION

On July 12, 2016 the Committee met in open session and ordered reported favorably the bill, H.R. 5707, by voice vote, a quorum being present.

## ROLL CALL VOTES

No roll call votes were requested or conducted during Full Committee consideration of H.R. 5707.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill provides for certain index fund investments from the Postal Service Retiree Health Benefits Fund. As such this bill does not relate to employment or access to public services and accommodations.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal and objective of the bill is to provide for certain index fund investments from the Postal Service Retiree Health Benefits Fund.

## DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

## FEDERAL ADVISORY COMMITTEE ACT

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

## UNFUNDED MANDATE STATEMENT

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

## EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

## BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

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

OCTOBER 20, 2016.

Hon. JASON CHAFFETZ,  
*Chairman, Committee on Oversight and Government Reform,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5707, the Postal Service Financial Improvement Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 5707—Postal Service Financial Improvement Act of 2016*

Summary: CBO estimates that enacting H.R. 5707 would cost about \$4.4 billion over the 2017–2026 period because funds from a government account would be transferred to a privately operated investment fund. Pay-as-you-go procedures apply because that transfer would increase direct spending. Enacting the bill would not affect revenues.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

H.R. 5707 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 5707 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

	By fiscal year, in millions of dollars—											2017– 2021	2017– 2026	
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026				
INCREASES OR DECREASES (–) IN DIRECT SPENDING														
Estimated Budget														
Authority .....	11,940	0	0	0	0	0	0	0	0	–7,533	11,940	4,407		
Estimated Outlays ...	11,940	0	0	0	0	0	0	0	0	–7,533	11,940	4,407		

Basis of estimate: The Postal Accountability and Enhancement Act (Public Law 109–435) established the Postal Service Retiree Health Benefits Fund (PSRHBF); the fund is administered by the Office of Personnel Management (OPM) and currently has a balance of \$51 billion. Beginning in fiscal year 2017, the PSRHBF will be used to pay the government’s share of health insurance premiums for retirees of the Postal Service (USPS), which CBO projects will total about \$4 billion in 2017. PSRHBF assets currently consist solely of U.S. government securities. H.R. 5707 would direct the Department of the Treasury to use professional asset managers to invest about 25 percent of the available balances of the fund in equity or bond index funds.

CBO expects that the Department of the Treasury would contract with a private entity to invest the PSRHBF balances in one or more privately operated investment funds. The current budgetary treatment of the investment of federal funds in non-Treasury financial instruments is specified in Circular A–11, published by the Office of Management and Budget, which states that the purchase of private securities should be recorded as an outlay at the time of the purchase. Thus, investments under H.R. 5707 would be classified as an outlay in 2017, increasing direct spending. Based on the current balance in the PSRHBF, CBO estimates that the Treasury would invest about \$12 billion.

In subsequent years the balance of the PSRHBF would decline as it is used to pay premiums for USPS retirees. Under the bill, CBO estimates that the PSRHBF would exhaust the balances held with the Treasury by 2026 and about \$7.5 billion would need to be transferred back into the Treasury that year from the privately operated investment funds to sufficiently replenish the fund balance. The A–11 specifies that such transfers should be treated as offsetting receipts, which would lower outlays.

In addition, assuming enactment of the bill by the end of calendar year 2016, and based on information from the Department of the Treasury about the anticipated fees that would have to be paid to private investors, CBO estimates that it would cost about \$4 million in fiscal year 2017 and \$74 million over the 2017–2026 period. We expect those amounts would be paid from investment earnings on the initial \$12 billion expenditure and the cost of those fees is not reflected in this estimate.

With the potential for greater rates of return, government investments in private securities would increase the expected value of budgetary resources, but such investments also would expose the government, future taxpayers, and beneficiaries of federal programs to greater risk. When that risk is taken into account, the re-

turns on private securities would be no greater than the returns on government securities, CBO estimates, so enacting H.R. 5707 would have no significant effect on investment returns for the PSRHBF.

H.R. 5707 would direct that the PSRHBF funds invested with private asset managers be considered a means of financing the federal deficit and not an expenditure. For this cost estimate, CBO did not follow this scoring directive because current budget laws and administrative procedures require that investments be accounted for as expenditures.

H.R. 5707 also would require the Department of the Treasury to hire an independent public accountant each year to audit the financial statements of the investments required by the bill and to prepare a report for the Congress on the performance of the new investments. Based on the costs of similar activities, CBO estimates that the audits and reports, as well as increased administrative costs for OPM, would cost less than \$500,000 annually, subject to the availability of appropriated funds.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 5707, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM ON JULY 12, 2016

	By fiscal year, in millions of dollars—												2017– 2021	2017– 2026
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026				
	NET INCREASE OR DECREASE (–) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact ....	11,940	0	0	0	0	0	0	0	0	0	–7,533	11,940	4,407	

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: H.R. 5707 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Mark Grabowicz; Impact on State, Local, and Tribal Governments: Zachary Byrum; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

**TITLE 5, UNITED STATES CODE**

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**PART III—EMPLOYEES**

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**SUBPART G—INSURANCE AND ANNUITIES**

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**CHAPTER 89—HEALTH INSURANCE**

\* \* \* \* \*

**§ 8909a. Postal Service Retiree Health Benefit Fund**

(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund which is administered by the Office of Personnel Management.

(b) The Fund is available without fiscal year limitation for payments required under section 8906(g)(2)(A).

[(c) The Secretary] (c) (1) *Subject to paragraph (2), the Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.*

(2)(A) *The Secretary of the Treasury shall immediately invest a specified percentage of the Fund, using one or more qualified professional asset managers, in index funds modeled after those established under subparagraphs (B), (C), (D) and (E) of section 8438(b)(1). The Secretary shall ensure, to the maximum extent practicable, that the investment replicates the performance of the longest-term target date asset allocation investment fund established by the Federal Retirement Thrift Investment Board. Funds invested pursuant to this paragraph shall be considered a means of financing.*

(B) *In exercising authority under subparagraph (A), including in the selection of specific qualified professional asset managers and in the development of specific investment guidelines to meet the requirement of such subparagraph, the Secretary shall consult with the Postal Service Retiree Health Benefits Fund Investment Committee.*

(C)(i) *There is established a Postal Service Retiree Health Benefits Fund Investment Committee that shall consist of—*

*(I) the Secretary;*

*(II) the Chairman of the Board of Governors of the United States Postal Service;*

*(III) the Chairman of the Federal Retirement Thrift Investment Board; and*

*(IV) 2 members to represent the interests of Postal Service employees and annuitants who—*

*(aa) are appointed by the President;*

*(bb) have experience and expertise in the management of financial investments and Postal Service employee benefits; and*

*(cc) shall serve for a term of 3 years.*

*(ii) The Postal Service Retiree Health Benefits Fund Investment Committee and each member of such Committee shall be subject to the requirements of subsections (b)(1) and (c)(2) of section 8477, in the same manner as applied to a fiduciary with respect to the Thrift Savings Fund under such subsections.*

*(D)(i) The Secretary shall annually engage an independent qualified public accountant to audit the financial statements of the investments made pursuant to subparagraph (A).*

*(ii) The Secretary shall submit an annual management report to the Congress not later than 180 days after the end of the each fiscal year that includes—*

*(I) a statement of financial position;*

*(II) a statement of operations;*

*(III) a statement of cash flows;*

*(IV) a statement on internal accounting and administrative control systems;*

*(V) the report resulting from an audit of the financial statements of the investments conducted under clause (i); and*

*(VI) any other comments and information necessary to inform the Congress about the operations and financial condition of the investments.*

*(E) In this paragraph—*

*(i) “specified percentage” means 25 percent of the currently available portions of the Fund as are not immediately required for payments from the Fund, except that the Postal Service Retiree Health Benefits Fund Investment Committee may specify a higher percentage, not to exceed 30 percent, not earlier than 5 years after the date of enactment of the Postal Service Financial Improvement Act of 2016, and as appropriate thereafter; and*

*(ii) “qualified professional asset manager” has the meaning given that term in section 8438(a).*

*(d)(1) Not later than June 30, 2007, and by June 30 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.*

*(2)(A) Not later than June 30, 2007, the Office shall compute, and by June 30 of each succeeding year, the Office shall recompute the difference between—*

*(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and*

*(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and*

*(II) the net present value computed under paragraph (1).*

*(B) Not later than June 30, 2017, the Office shall compute, and by June 30 of each succeeding year shall recompute, a schedule including a series of annual installments which provide for the liq-*

uidation of any liability or surplus by September 30, 2056, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

(3)(A) The United States Postal Service shall pay into such Fund—

- (i) \$5,400,000,000, not later than September 30, 2007;
- (ii) \$5,600,000,000, not later than September 30, 2008;
- (iii) \$1,400,000,000, not later than September 30, 2009;
- (iv) \$5,500,000,000, not later than September 30, 2010;
- (v) \$5,500,000,000, not later than August 1, 2012;
- (vi) \$5,600,000,000, not later than September 30, 2012;
- (vii) \$5,600,000,000, not later than September 30, 2013;
- (viii) \$5,700,000,000, not later than September 30, 2014;
- (ix) \$5,700,000,000, not later than September 30, 2015; and
- (x) \$5,800,000,000, not later than September 30, 2016.

(B) Not later than September 30, 2017, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund the sum of—

- (i) the net present value computed under paragraph (1); and
- (ii) any annual installment computed under paragraph

(2)(B).

(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

(5)(A)(i) Any computation or other determination of the Office under this subsection shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

(ii) Upon receiving a request under clause (i), the Commission shall promptly procure the services of an actuary, who shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of healthcare insurance obligations, to conduct a review in accordance with generally accepted actuarial practices and principles and to provide a report to the Commission containing the results of the review. The Commission, upon determining that the report satisfies the requirements of this subparagraph, shall approve the report, with any comments it may choose to make, and submit it with any such comments to the Postal Service, the Office of Personnel Management, and Congress.

(B) Upon receiving the report under subparagraph (A), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

(6) After consultation with the United States Postal Service, the Office shall promulgate any regulations the Office determines necessary under this subsection.

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