

# CRS Issue Brief for Congress

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## Postal Reform

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## Postal Reform

### SUMMARY

Although its short-term financial performance has improved, the U.S. Postal Service (USPS) faces severe financial straits in the long term. Use of the mails is declining as alternatives such as e-mail, faxes, and on-line billpaying substitute for hard copy letters. Yet costs — nearly 80% of which are labor — rise with the addition of 1.8 million addresses each year and mounting obligations for retiree health benefits. USPS would be bankrupt but for the fact that it is a government entity, with Treasury borrowing rights.

USPS, its board of governors, GAO, mailers' organizations, and most recently a presidential commission have said that the Postal Reorganization Act of 1970 no longer provides a viable business model. The rate setting process is cumbersome and tendentious, and prevents USPS from responding flexibly to an increasingly competitive marketplace. Long-standing political and statutory restrictions impede efforts to modernize the mail processing network, close unneeded facilities, or change delivery standards.

Most postal stakeholders think that the USPS monopoly lines — especially first class, and periodical mail — are a declining business, and want USPS to compete in other markets that are growing. Competitors in those markets resist because USPS pays no taxes and is immune from most government regulation. USPS has had little success to date in developing commercially competitive lines of business.

Passage of P.L. 108-18, the Postal Civil Service Retirement System Funding Reform Act of 2003, enabled USPS to pay off most of its debt to the Treasury, and to defer further rate increases through 2005. However, Con-

gress recognized that two of its provisions must be revisited. One required USPS to set aside future pension savings in an escrow fund, requiring a 5.4% increase in postal rates in 2006 with no operational benefit. The other transferred the obligation to pay pension benefits for military service from the Treasury to USPS, costing ratepayers \$27 billion.

On July 31, 2003, a blue-ribbon commission appointed by President Bush issued a report recommending changes consistent with reform legislation that has been brewing for years, but also recommending controversial workforce changes. Bi-partisan postal reform bills were reported unanimously by the House and Senate Committees in the 108th Congress, but neither made it to the floor. Both bills drew more on previous reform efforts in Congress than on the recommendations of the President's Commission. The central feature of each is reform of the rate setting process, making it more transparent, flexible, and predictable but with no new cost-cutting tools.

Very similar legislation in the 109th Congress has passed the House as H.R. 22 and been reported by the Senate committee as S. 662. However, the Bush Administration believes that reforms in the bills are too modest and adamantly opposes pension funding relief, which would add to the budget deficit. USPS just implemented a \$3.1 billion rate increase that it says would not be necessary if Congress passed legislation to relieve it of the escrow requirement. But USPS has belatedly come to the conclusion that the reforms in the bill would cede too much power to a new regulatory authority, and fail to give USPS authority to cut costs for fringe benefits or facilities. USPS is also skeptical that pension funding relief will happen.

## MOST RECENT DEVELOPMENTS

Bi-partisan postal reform legislation has been introduced in the 109<sup>th</sup> Congress in both chambers — H.R. 22, and S. 662. H.R. 22 passed the House by a 410-20 vote on July 26. Three amendments were defeated, including one that would have met the Administration's demand that the bill be "budget neutral." The Senate Homeland Security and Governmental Affairs Committee reported S. 662 on June 22, 2005 with one dissenting vote. Momentum has been lost because USPS has implemented the 5.4% rate increase the legislation could once have stopped, because of a reported hold based on objections of a large card manufacturer, and because of the appearance of renewed objections from the Administration and the Postal Service itself. A February Senate vote now seems likely, followed by a conference to iron out a number of unsettled issues and objections.

The Bush Administration issued a Statement of Administration Policy on the day of the House vote that praised some elements of H.R. 22, but also threatened a veto of the legislation if it had an adverse impact on the President's budget. On September 13, the USPS Board of Governors wrote a letter to the Committees that they would rather have no legislation than a bill that erodes the Board's authority, adds no tools for cutting costs, and meets the Administration's demand for budget neutrality. On September 20, the American Postal Workers Union also expressed concern about the bill.

In recent months USPS has begun a nationwide initiative to consolidate certain mail processing operations in its distribution network. About 50 consolidations are being proposed or studied, and the American Postal Workers Union (APWU) has organized a broad-scale opposition effort.

## BACKGROUND AND ANALYSIS

Postal Service management, its board of governors, the Government Accountability Office (GAO), most stakeholders, and most lately a presidential commission have concluded that the Postal Reorganization Act of 1970 no longer provides a viable business model for a successful postal enterprise at the turn of the century. That act had taken postal affairs out of the direct control of either Congress or the President. It made the U.S. Postal Service (USPS) an independent establishment of the executive branch, directed by a postmaster general selected by, and serving at the pleasure of, a part-time board of governors appointed by the President with the consent of the Senate. USPS was permitted to operate using business principles, and charged with generating enough revenues to support the costs of the service it provides by allocating those costs among the many users of the postal system. That allocation has been accomplished through periodic rate cases before the Postal Rate Commission (PRC), a five-member regulatory commission that considers cost data and the conflicting views of competitors, unions, and users of the many classes of mail in a 10-month adjudicative process leading to new rates and classification requirements.

The legal and regulatory framework established by the act served reasonably well for nearly three decades. Delivery service and customer satisfaction improved, USPS survived without general appropriations since 1983, rising mail volumes covered the costs of adding new routes and delivery points each year, and prices rose generally in line with inflation. Postal issues came to be perceived as minor enough that postal service committees and

eventually even subcommittees disappeared from the congressional organization chart. However, few who are familiar with postal affairs believe that Congress can ignore the current state of the enterprise. Comptroller General David Walker testified bluntly on May 13, 2002, before a Senate Governmental Affairs subcommittee that the institution's current course is "unsustainable." In 2003, the blue-ribbon President's Commission on the United States Postal Service came to the same conclusion.

USPS faced a financial crisis in 2001, when both the House and the Senate held hearings on the deteriorating financial condition of the enterprise. GAO issued a number of reports that portrayed a steadily growing sense of urgency, and placed the transformation of the Postal Service on its list of High Risk programs. Among the indicators of an impending crisis were the following:

- Despite desperate cost-cutting measures, a freeze on facilities, and severe limits on productivity investments, revenues were falling faster than expenses. USPS suffered losses of more than \$2 billion in 2001 and 2002.
- Mailers warned of an "economic death spiral," as falling mail volume forced price increases to cover fixed costs, and the price increases led to further drops in volume as businesses seek more cost-effective alternatives.
- Liabilities continued to exceed and grow faster than assets, a condition that GAO said would mean bankruptcy if USPS were not a government entity.

## **Causes of the Financial Crisis**

While there are differences among the stakeholders in emphasis, the following factors have been identified as being in part responsible for the financial crisis of 2001-2002, and the present precarious state of the enterprise:

- The economic slowdown that began in early 2001 cut into USPS revenues from the dominant business segment, and (temporarily, as it turned out) reduced advertising mail, which now accounts for most mail volume. Costs continue to rise, however, since 1.8 million delivery points are added each year, built-in wage and cost-of-living increases add \$2 billion per year even with declining employment rolls, and USPS is particularly vulnerable to energy price spikes.
- The rate determination process is cumbersome and rigid, preventing USPS from aligning its offerings with the variable needs of its customers. Preparations for a rate case begin many months before a filing with the Postal Rate Commission (PRC) and USPS must estimate costs and demand nearly two years into the future. The adversarial process of contesting proposed rates and classes goes on for 10 months, with exchanges of tons of paperwork and hundreds of hours of testimony. USPS competitors are very active participants. The emphasis is on allocating stated costs among mail classes rather than reducing costs or encouraging demand. USPS complains that the process gives it no opportunity to respond to competition, to vary rates with

the season or periods of low usage, to negotiate rates with big mailers, or to price products in accordance with demand, rather than costs of service.

- Three rate increases in an 18-month period drove some mailers to curtail volume in order to stay within set budgets, and made the comparative cost of alternatives more attractive.
- Competition from other providers and other media had begun to marginalize some of the services that USPS provides. E-mail, fax transmission, and cell phones without distance charges have become substitutes for written correspondence. The Internet is becoming increasingly popular as an alternative for financial billing and payment, which sustained USPS volume and revenue growth through the 1990s. USPS is already a secondary player in the overnight express and package delivery markets, except for the most difficult and costly routes to service in Alaska and Hawaii.
- Labor costs of its more than 700,000 employees accounted for over three-fourths of USPS expenses, not much less than was the case decades ago. In contrast, labor costs are 56% of United Parcel Service's expenses, and 42% of costs at FedEx, where only the pilots are unionized. Lagging productivity growth (11% in 30 years), a backlog of 146,000 pending or appealed labor grievances that are pursued "on the clock," and binding arbitration of disputes keep labor costs high. Costly government annual and sick leave, early retirement, and health benefits are set in law and can only be enhanced, not diminished, in contract negotiations.
- Facilities are not optimally located for efficient distribution, since USPS has been unable to close existing facilities and consolidate operations in new locations. USPS maintains that over half its 38,000 facilities do not generate enough revenues to cover their costs, and complains that political considerations prevent it from modernizing its retail and distribution system.
- The use of mail to deliver agents of bio-terror (anthrax, followed by ricin) imposed major new mail security and operational costs on USPS, only some of which have been met by appropriations.

The American Postal Workers Union (APWU) has been a vocal proponent of another ascribed cause for the postal financial predicament. The APWU told Congress in May 2002 that the "Postal Service's financial crisis is directly attributable to the \$12 billion in postage discounts it gives annually to major mailers and direct mail firms for pre-sorting their mail. The discounts equal significantly more than the costs the Postal Service avoids when it receives pre-sorted mail, and they amount to huge subsidies for the major mailers and direct mail firms." APWU believes that at least some of this revenue could be recovered if the work were brought back in-house.

## **The USPS Transformation Plan**

When GAO placed the long-term outlook for USPS on its High Risk List in the spring of 2001, the Senate Governmental Affairs Committee asked USPS to prepare a

comprehensive plan to address its financial, operational, and workforce challenges. USPS responded in April 2002 with an ambitious *Transformation Plan* that had two major thrusts. One was a concerted effort to improve operational efficiency, freeze spending on facilities, and cut costs by \$5 billion over the next five years within USPS's existing statutory authorities. This aspect of the plan has succeeded to an impressive degree. In its November 2004 report on progress toward the plan, USPS said that it had reduced the rolls of career employees by 68,000, boosted productivity by 5%, reduced the backlog of unresolved grievances, and achieved \$4.3 billion in cost reductions towards its \$5 billion goal.

The second thrust of the plan was to seek congressional approval of new statutory authorities that would allow USPS to change its business model. The plan suggested the need for authority to close retail post offices and processing centers, negotiate service agreements and discounts with large mailers, revamp contract talks with the unions to escape binding arbitration, cut back on delivery days, and most significantly, expanded freedom to use its assets for entering related markets and developing new products without skeptical scrutiny from the PRC.

## **Should the Postal Service Compete?**

USPS itself (in its Transformation Plan), its unions, and many mailers' organizations believe that the survival of the Postal Service depends on the institution's ability to compete in active or developing markets, because the services it provides under its statutory monopoly are a declining business. Another school of thought, however, rejects the notion that USPS should compete with private sector companies who are able to provide services within the market economy.

There are several components to the argument. One relates to fairness. USPS has many advantages stemming from its governmental status. It pays no federal, state, or local taxes on its income, sales, purchases, or property. Unlike private sector companies, it is immune from most forms of regulation, such as zoning, land use restrictions, motor vehicle registration, parking tickets, and antitrust. It is also able to borrow money at the lowest possible rate because it does so through the U.S. Treasury. Companies facing competition from USPS argue that these factors put them at a great disadvantage (though they tend to ignore the statutory constraints and regulation by the PRC that USPS faces).

A second argument is based on concepts of economic efficiency. Because of its indirect subsidies such as freedom from taxation and regulation, and because its goal is to break even rather than earn a competitive rate of return, USPS has less incentive than private sector entities to use capital and labor resources efficiently. Subsidies make government products and service seem artificially cheap, resulting in an over-allocation of resources that could be used to produce greater benefits elsewhere in the economy. Economic theory maintains that such a mis-allocation reduces national economic welfare below that achieved by a competitive market. When private sector companies produce and sell a product or service, there is some benefit to society from the taxes that result, a benefit not gained when the government produces the same product or service.

Finally, there is substantial evidence that USPS is not a very adept competitor. GAO has issued several reports of failed commercial ventures by USPS. In 1997, for example, USPS had discontinued or was losing money on 15 of 19 new products, resulting in a net loss of \$85

million. UPS and FedEx have both established profitable delivery networks in markets where USPS tries to compete but is now a relatively minor player.

One policy prescription leading from this diagnosis is that USPS should stick to its monopoly business and not seek to grow at the expense of private sector competitors. Indeed, some would like to see the postal monopoly reduced to “the last mile” of delivery, opening up collection, sorting, and transportation to market competition.

## **Recalculation of USPS Retirement Obligation**

Postal reform has become intimately bound up with controversies over its huge retirement obligations for former employees and their spouses. On April 23, 2003, President Bush signed into law the Postal Civil Service Retirement System Funding Reform Act of 2003, P.L. 108-18. The law was quickly passed without dissent in either chamber in response to a surprise finding by the Office of Personnel Management (OPM) that future payments under current legislation would overfund USPS liability to the Civil Service Retirement Fund by at least \$71 billion. A principal reason is that interest earnings on past contributions by USPS on behalf of its employees have been credited at a statutory rate of 5%, when in fact the average rate of return on the bonds held by the trust fund has been substantially higher.

The act authorized USPS to reduce its annual payments by \$3.5 billion in FY2003 and \$2.7 billion in FY2004 and in FY2005. The savings (plus rate increases) allowed USPS to eliminate its \$11.9 billion debt to the Treasury in 2005 and keep postage rates stable through 2005. While this development (coupled with cost-cutting successes achieved by USPS under its Transformation Plan) granted financial breathing room, Postmaster General John Potter said that it does “not in any way obviate the fundamental flaws in the Postal Service business model” and urged undiminished attention to postal reform.

The act also did not (as was recognized by its authors) permanently settle questions about responsibility for postal retirement obligations. It required reports from the Treasury and OPM, USPS, and GAO, all of which were delivered and debated in the ensuing months. Three major points remain at issue. First is the use of future savings from the retirement funding reduction. USPS refuses to refer to them as “savings” at all, saying they are “actually a correction of a statutorily-mandated (over)payment into the retirement system.” The law requires that they continue to be collected through postage rates and kept unused in an escrow account until Congress decides on their use in the future. The amounts are considerable, estimated by CBO at \$43.2 billion over the 2006-2015 period. The rub arises from the fact that either not collecting the funds, or using them for operational expenses, would have the effect of reducing revenues in the unified federal budget, thus increasing the deficit by that amount. USPS and mailers organizations naturally object to the collection of funds that cannot be used. The Bush Administration agrees that the escrow requirement has no operational value, but has said that any change to the requirement must be made in a budget-neutral manner.

The second issue concerns a provision of P.L. 108-18 that transferred from the Treasury to USPS the obligation to cover military retirement costs of postal employees in the Civil Service Retirement System, a \$27 billion obligation. If this amount had not been subtracted from the USPS overpayment to the Civil Service Retirement Fund, the overfunding would have amounted to more than \$100 billion. USPS pointed out that more than 90% of the

financial obligation is the result of military service performed before the Postal Service was created, that no other agency has to bear these costs for its veterans, and that it conflicted with the veterans preference requirement. The President's Commission on the United States Postal Service (see next section) recommended that the costs be returned to the Treasury because they are a national obligation and none of USPS's competitors have to pay for retirement benefits earned while the retiree was employed by another employer. The Administration has remained firm in opposing return of the obligation to the Treasury (and the taxpayer), though its rationale has developed over time. Its original report suggested that USPS should bear the costs because the retirement credits based on military service would have no value if the employees had not joined USPS, and thus were a consequence of USPS hiring decisions. More lately, its rationale has stressed the fact that all agencies bear the costs of military retirement in their contributions to the Federal Employees Retirement System (FERS — to which all federal employees hired since 1984 belong), without complaint, and that the underlying principle of P.L. 108-18 was to apply FERS-like principles to USPS. GAO, whose original report said this was a policy matter for Congress to decide, seemed to side with USPS in an April 14, 2005 hearing, saying that costs of military service should be borne by beneficiaries of the service, or taxpayers rather than postal ratepayers.

The third issue is the USPS unfunded liability for health care costs of its retirees, estimated by CBO at \$76.8 billion over the 10-year period 2006-2015. USPS proposes that a fund be created in the Treasury to hold money for this obligation, funded initially with a \$20 billion credit from returning military retirement obligations to the Treasury. The Administration would counter-propose that all of the collections from retaining the escrow requirement be put into the new fund, which would have the effect of making removal of the escrow requirement budget neutral because postage rates would not be diminished.

Postal reform hearings in both the 108<sup>th</sup> and the 109<sup>th</sup> Congresses have focused in large part on the escrow and military pension issues, since they will have a very significant effect on postage rates. In the March 23, 2004 joint hearing, Senator Susan Collins said that not a single witness in the Senate's previous six hearings had supported the Administration's position that ratepayers, rather than taxpayers should be responsible for pension costs arising from prior military service by postal employees. The postmaster general said that the escrow requirement would add 5.4% to the next rate increase, and reduce USPS competitiveness. Treasury Secretary John Snow defended the military pension obligation as consistent with the principle that ratepayers should be responsible for all postal costs. The issue was joined again at a Senate hearing on April 14, 2005. The Administration's witnesses reiterated strong opposition to having Treasury re-assume military retirement costs, and to using any proceeds from removal of the escrow requirement to keep postage rates down.

## **The President's Commission on the United States Postal Service**

A number of postal observers have believed for some time that political power is so thoroughly dispersed among stakeholders that only an independent blue-ribbon commission, rather than the legislative process, could devise a contemporary solution to today's postal crisis. There is a notable precedent. In 1967, President Johnson appointed Frederick R. Kappel (the chief executive of AT&T) to chair a Commission on Postal Organization that eventually devised the framework for the Postal Reorganization Act of 1970.

On December 11, 2002, President Bush issued Executive Order 13278 creating a Commission on the Postal Service, forestalling congressional initiatives to create such a commission by statute. The co-chairmen of the commission were James Johnson, former CEO of Fannie Mae, and Harry Pearce, board chairman of Hughes Electronics. The other seven members included no one with close ties to postal stakeholders. Most were business executives, with one local labor leader, the president of Yale University, and Robert Walker, a former Member of Congress. The commission's website has hundreds of statements by interested parties on reform proposals before the commission. Public hearings concluded on May 29, and the commission issued its final 181-page report to the President, on schedule, on July 31, 2003.

The commission's report, *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service*, confirmed that universal mail service at affordable rates is at risk, and made 35 recommendations, 18 of which would require some action by Congress. In many ways, the commission's approach is in the mainstream of postal reform discussions that have been underway among stakeholders since the mid-1990s. For example, the commission endorsed the basic structure of the 1970 Postal Reorganization Act, recommending that USPS "should continue to operate as an independent establishment within the executive branch with a unique mandate to operate as a self-sustaining commercial enterprise" and rejecting the alternative of privatization that many other countries have adopted. While keeping the basic government corporation model, the commission pressed in many of its recommendations that USPS should adopt the "best practices of similarly-sized private-sector corporations." These included an independent corporate-style board of directors that would perpetuate itself, greater financial transparency, expanded outsourcing for services, aggressive real estate asset management, and use of commercial purchasing practices. A core recommendation was that USPS should not enter new lines of business, but adjust to a steadily reducing demand for its services by becoming smaller and more productive.

The commission's recommendations with regard to regulatory controls were similar to proposals under consideration by Congress for several years. The Postal Rate Commission would be transformed into a new Postal Regulatory Board that would have authority to refine the scope of the universal service obligation and the postal monopoly, to establish broad parameters within which USPS could set rates and negotiate service arrangements, to redefine pay comparability, and to assure that competitive products are not cross-subsidized by revenues from products protected by the monopoly.

While recommending that Congress eliminate current statutory restrictions on closing post offices for economic reasons, the commission did not press for an aggressive program of closing local post offices, pointing out that even some "low activity" post offices are needed to meet the universal service obligation. It placed much more emphasis on consolidating the 446 large processing facilities, recommending a Postal Network Optimization Commission to identify facilities to be closed with a fast-track congressional approval process comparable to the defense base closing process.

The most controversial of the commission's recommendations were four proposals relating to workforce compensation, a subject that recent bills in Congress have conspicuously avoided. Referring to "persuasive testimony" that a postal compensation premium may exist, the commission (with the one member from the labor movement dissenting) recommended major revisions to the current practice of binding arbitration of

wage bargaining disputes, including the value of fringe benefits such as health care and early government retirement in bargaining over compensation, a redefinition of pay comparability to be made by the Postal Regulatory Board, and introducing some form of pay for performance into the compensation package. The American Postal Workers Union news bulletin denouncing the recommendations as “fundamentally dishonest” and “a disaster,” said the APWU would use every tool at its disposal to assure that none of them becomes law.

## **Activity in the 107<sup>th</sup> Congress**

Although Congress became increasingly concerned about deterioration in USPS’s finances, little legislative activity occurred until late in the 107<sup>th</sup> Congress. The House Postal Service Subcommittee was not reconstituted in the 107<sup>th</sup> Congress. Representative John McHugh, who had chaired the Postal Subcommittee through six years of hearings largely devoted to postal reform, was term-limited as chairman. Formal congressional oversight focused largely on the anthrax crisis. In a House Government Reform Committee hearing on April 4, 2001, Chairman Dan Burton and ranking minority member Henry Waxman invited postal stakeholders to participate in a broad range of discussions aimed at the development of a bi-partisan consensus bill, and these discussions proceeded for more than a year. A bi-partisan bill (H.R. 4970) was eventually introduced on June 20, 2002, proposing changes in the regulatory process. However, H.R. 4970 fell victim to legislative backlogs as the 107<sup>th</sup> Congress drew to a close, and it did not emerge from committee.

## **Activity in the 108<sup>th</sup> Congress**

Both the House Government Reform and the Senate Governmental Affairs Committees geared up for concentrated attention to postal issues in the 108<sup>th</sup> Congress. Congress did act swiftly on the USPS request to change the formula for its contributions to the Civil Service Retirement Fund. By April 23, 2003, the Postal Civil Service Retirement System Funding Reform Act of 2003 had been enacted as P.L. 108-18. Its proponents said that the act would provide some much-needed financial breathing room but warned that it would be a serious mistake to let that relief forestall consideration of long-range reforms. They also recognized that Congress would need to revisit provisions of the act that put “savings” to the Postal Service in an escrow fund that could not be used for regular operations and obligations, and that transferred the obligation to pay retirement benefits based on military service from the Treasury to the Postal Service. Both provisions will have a major impact on postage rates if they are not changed.

The Senate Governmental Affairs Committee held eight hearings on the report of the President’s Commission, the House Government Reform Special Panel held three, and there was also a joint hearing of the two bodies on March 23, 2004. Following the hearings, both committees drafted and unanimously reported legislation on a bi-partisan basis. However, neither bill was brought to the floor in the 108<sup>th</sup> Congress.

### **H.R. 4341 (McHugh)**

On May 12, 2004, H.R. 4341 was introduced by Representatives Tom Davis, Waxman, Danny Davis, and McHugh, and ordered to be reported the same day on a unanimous vote of the House Government Reform Committee. According to the committee’s summary of the bill, seven overall areas of focus were paramount:

- **Modern Rate Regulation** — shifting the basis of the Postal Rate Commission from a costly, complex scheme of rate cases to a modern system designed to ensure that rate increases in market-dominant products (letters, periodicals, and advertising mail, but not single-piece parcel post) generally do not exceed the annual change in the Consumer Price Index.
- **Combining Market Disciplines with Regulation** — combining market mechanisms with Commission regulation to govern the rates of competitive products, such as Express Mail and Priority Mail. USPS would be given additional pricing freedom, including discounts not available to all mailers, but would lose favored legal treatment for such products.
- **Limitations on Postal Monopoly and Nonpostal Products** — requiring the Postal Service to only offer postal services and for the first time defining exactly what constitutes “postal services.” The bill also would revise the authority of USPS to regulate competitors.
- **Reform of International Mail Regulation** — clarifying the authority of the State Department to set international policy, applying customs laws equally to postal and private shipments, and giving the Postal Service the authority to contract with airlines for transport of international mail.
- **Strengthening of the Commission** — giving the Postal Rate Commission “teeth” by granting it subpoena power and a broader scope for regulation and oversight. The PRC would be renamed the “Postal Regulatory Commission.”
- **Establish a Basis for Future Reforms** — mandating several studies, including a comprehensive assessment of the scope and standards for universal service, and a study of the processing and distribution network that would include the statutory and regulatory obstacles preventing the realignment or consolidation of facilities.
- **Pension obligation reforms** — including repealing the escrow provision of P.L. 108-18 and returning responsibility for the military service cost of postal retirees to the Treasury Department, while also requiring the Postal Service to begin funding its enormous liability for retiree health benefits.

The bill also contained provisions, sought by the APWU, restricting the ability of USPS to offer work-sharing discounts that exceed the savings in mail processing costs avoided by having private sector processors participate in mail sorting. The bill would require that the next appointment to the USPS Board of Governors be made from a list of persons unanimously approved by the postal labor unions. It contained a provision supported by UPS that would remove single-piece parcel post from the list of market-dominant products, raising the price of this service. Notably, H.R. 4341 did not include any of the workforce measures recommended by the President’s Commission, such as major changes to collective bargaining, pay comparability, or fringe benefits, all of which were strongly opposed by postal unions, nor did it deal with the knotty problem of allowing USPS to rationalize its outdated facilities network.

**S. 2468 (Collins)**

In the Senate, S. 2468, a bi-partisan reform bill was introduced on May 20, 2004, by Senators Collins and Carper. It was marked up by the Senate Governmental Affairs Committee on June 2, and ordered to be reported by a 17-0 vote. The Senate bill had much in common with H.R. 4341, though the two bills differed somewhat in their provisions on parcel delivery as a competitive business, work-sharing discounts, service standards, negotiated service agreements, the factors that can be considered (other than inflation) in setting annual rate increases, and changing the terms of the postal board of governors. S. 2468, unlike the House bill, had certain provisions that would make the postal workers injury compensation program more comparable to state programs, and that would encourage injured workers to move to retirement rolls. The Senate bill also lacked a number of provisions in the House bill for studies and resolutions of specific areas of postal law. Both bills would relieve USPS of the escrow and military retirement obligations and require USPS to begin funding future retiree health care obligations. But the two bills had different payment schedules. The Senate bill also carried a somewhat higher net cost to the unified budget — \$15.7 billion versus \$10.4 billion — than the House bill, according to the CBO cost estimate for S. 2468. It was this budget cost that scuttled floor consideration of S. 2468 late in the session.

**S. 1285 (Carper)**

Senator Carper introduced comprehensive postal reform legislation, S. 1285, on June 18, 2003. It was intended as a placeholder pending the recommendations of the President's Commission, and S. 2468 superceded it. The proposal in S. 1285 that attracted the most attention was that USPS realign its operations to meet new service standards. USPS's plan to meet the standards would include the preparation of a list of facilities no longer needed, and the list would be reviewed by an independent commission along the lines of the base closing commissions. S. 2468 did not have a comparable proposal.

**Activity in the 109<sup>th</sup> Congress**

The fact that two similar postal reform bills in the 108<sup>th</sup> Congress had been reported by unanimous votes in both the House and Senate Committee was a hopeful sign to some observers that the way was clear for early passage in the 109<sup>th</sup> Congress. Since then, however, some signs of defection have appeared. The Bush Administration circulated a plain-paper memorandum in mid-November 2004 criticizing both H.R. 4341 and S. 2468. The Administration said that the legislation must be made budget neutral, and characterized it as “lack[ing] meaningful reforms in the areas of transparency — to prevent cross-subsidization of competitive products with monopoly product revenue; and flexibility — especially with respect to cutting back the high cost of labor (76% of revenue).” There appeared to be room for compromise on the escrow question if all the funds could be used to pre-fund retiree health benefits rather than operational expenses, but the Administration continued to oppose shifting military retirement costs back to the Treasury. The Administration's position paper also requested that the bill provide USPS flexibility to “optimize its processing and distribution network.” This would result in consolidating some job-heavy processing facilities, a subject the reform bills had skirted.

**H.R. 22 (McHugh)**

Representative McHugh re-introduced the House version of postal reform legislation with no significant modifications on the first day of the 109<sup>th</sup> Congress, for himself,

Government Reform Committee Chairman Tom Davis, Ranking Minority Member Waxman, and Representative Danny Davis. According to the committee's website, "overall, the major provisions of the Postal Accountability and Reform Act remain the same as the version introduced last year."

H.R. 22 was marked up by the Committee on Government Reform on April 13, 2005, and reported on a roll call vote of 39-0. The only issue of debate was a section in the bill making competition between U.S. and foreign air carriers on price and service the norm for the transport of international mail. An amendment by Representative LaTourette to have the provision stricken, and to substitute a study of the issue by GAO, was adopted by voice vote.

CBO issued a cost estimate on April 25 saying that enacting H.R. 22 would not affect how much the federal government spends on pension or health care benefits for USPS retirees, but it would increase future budget deficits as measured by the unified federal budget. CBO estimated there would be an on-budget saving of \$35.7 billion (from funding the Postal Service Retiree Health Benefits Fund in the Treasury), but an off-budget cost of \$41.6 billion, for a net cost to the unified budget of \$5.9 billion for the FY2006-FY2015 period.

The House debated H.R. 22 on July 26, 2005 and passed it by a vote of 410-20, after rejecting three proposed amendments. One of the amendments, offered by Representative Hensarling, would have met the Bush Administration's demand that the bill be "budget neutral," by requiring that all escrow funds be used for advance funding of retiree health benefits, and by removing the provision that transfers responsibility for military pension funding back to the Treasury. Another rejected amendment would have removed the requirement that the next vacancy on the Board of Governors be filled with a labor representative. On the day of the vote, OMB issued a Statement of Administration Policy objecting to several features of H.R. 22 in addition to its effects on the budget. One especially sensitive proposal was that the bill be amended to direct the arbitrator in labor negotiations to consider the financial health of USPS in making wage increase awards.

### **S. 662 (Collins)**

Senator Collins, with Senator Carper and Senator Voinovich, introduced the Senate version of the postal reform bill on March 17, 2005, and it was referred to the Committee on Homeland Security and Governmental Affairs. More changes were made in the Senate bill than in the House bill, several of them designed to address concerns of the Administration. The bill would impose more stringent financial transparency requirements on USPS, including the filing of SEC-like reports on a quarterly schedule, and require USPS to get Treasury approval for the investment of its profits. A new worksharing discount provision appeals to large mailers. While both bills would allow USPS to raise rates in line with inflation, the Senate bill has more stringent language to prevent exceptions for "unexpected and extraordinary circumstances." Provisions relieving USPS of the escrow and military retirement obligations were not changed, except that the budget impact was brought more into line with the House version by accelerating the schedule for USPS to begin paying into a Treasury account for financing future retiree health benefits. The CBO cost estimate for S. 662 carries a lower 10-year cost — \$3.9 billion — than does the House bill. It would devote about three-quarters of the escrow savings to advance funding of retiree health costs, while the House bill would devote about two-thirds. The Administration's position is that the bill must be budget neutral, which would preclude any use of the escrow fund for operations.

The Committee heard testimony on the bill from USPS, GAO, the Department of the Treasury, and OPM on April 14, 2005. Nearly all of the discussion was directed to the Administration's continuing opposition to returning military retirement costs to the Treasury, and to removing the escrow requirement for any other purpose than funding retiree health benefits.

S. 662 was reported by a 15-1 vote of the Committee on June 22, 2005. Senator Coburn, in dissent, objected to the budget cost of the bill and its lack of authority to deal with health care costs of postal employees, whose benefits are greater than those of other federal workers.

Since the Senate Committee vote, however, prospects for the legislation have dimmed somewhat. The Senate's attention has been devoted to the Supreme Court, Hurricane Katrina, and budget issues. In order for floor time to be scheduled, the leadership would expect contentious issues to be resolved ahead of time. The Postal Service Board of Governors dealt a blow to the bill's prospects by sending the Committees a September 13 letter raising basic questions about the value of the "reforms" in the legislation, especially if they are not accompanied by pension funding relief at the Administration's insistence. The Board (which includes the Postmaster General) primarily objected to the enhanced role given in the bill to the Postal Regulatory Commission. It also said that USPS could not accept a "hard" rate cap at the CPI level without "significantly greater ability to control its infrastructure and growing labor costs." The American Postal Workers Union followed a week later with a letter expressing some of the same reservations about the legislation, fearing that a hard rate cap would eventually result in pressure to keep wage levels down.

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## FOR ADDITIONAL READING

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CRS Report RS21640. *The Legislative Recommendations of the President’s Commission on the United States Postal Service: A Brief Overview*, by Nye Stevens and Kevin Kosar.

CRS Report RL31069. *Postal Service Financial Problems and Stakeholder Proposals*, by Nye Stevens. (While this report has not been maintained since 2002, it provides a comprehensive analysis of reform proposals, such as privatization, that are not currently before Congress.)

CRS Report RS21025. *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Nye Stevens.

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