



# The U.S. Postal Service's Financial Condition: Overview and Issues for Congress

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## Summary

This report provides an overview of the U.S. Postal Service's (USPS's) financial condition, legislation enacted to alleviate the USPS's financial challenges, and possible issues for the 112<sup>th</sup> Congress. It also includes a side-by-side comparison of two of the postal reform bills, H.R. 2309 and S. 1789.

Since 1971, the USPS has been a self-supporting government agency that covers its operating costs with revenues generated through the sales of postage and related products and services.

In recent years, the USPS has experienced significant financial challenges. After running modest profits from FY2004 through FY2006, the USPS lost \$25.4 billion between FY2007 and FY2011. Were it not for congressional action, the USPS would have lost an additional \$9.5 billion.

A number of ideas have been advanced that would attempt to improve the USPS's financial condition in the short term so that it might continue as a self-funding government agency. All of these reforms would require Congress to amend current postal law. The ideas include (1) increasing the USPS's revenues by altering postage rates and increasing its offering of nonpostal rates and services; and (2) reducing the USPS's expenses by a number of means, such as recalculating the USPS's retiree health care and pension obligations and payments, closing postal facilities, and reducing mail delivery to less than six days per week.

This report will be updated after the USPS releases its quarterly financial results in early February 2012, and in the interim should there be any significant developments.

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## Background

Since 1971, the U.S. Postal Service (USPS) has been a self-supporting, wholly governmental entity. Prior to that time, the federal government provided postal services via the U.S. Post Office Department (USPOD), a government agency that received annual appropriations from Congress. Members of Congress were involved in many aspects of the USPOD's operations, including the selection of managers (e.g., postmasters) and the pricing of postal services. In 1971, Congress enacted the Postal Reorganization Act (PRA; P.L. 91-375; 84 Stat. 725), which replaced USPOD with the USPS, an "independent establishment of the executive branch" (39 U.S.C. 201). The USPS is a marketized government agency that was designed to cover its operating costs with revenues generated through the sales of postage and related products and services.<sup>1</sup>

Although the USPS does receive an annual appropriation, the agency does not rely on appropriations. Its appropriation is about \$100 million per year, about 0.1% of the USPS's \$75 billion operating budget.<sup>2</sup> Congress provides this appropriation to compensate the USPS for the revenue it forgoes in providing, at congressional direction, free mailing privileges to blind persons and overseas voters.

The Postal Service Fund, which the USPS uses for most of its financial transactions, is off-budget, and therefore not subject to the congressional controls of the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344; 88 Stat. 297; 2 U.S.C. 621).<sup>3</sup> However, the Postal Service Retiree Health Benefits Fund (RHBF), which was established by the Postal Accountability and Enhancement Act of 2006 (PAEA; P.L. 109-435, §803; 120 Stat. 3251), is on-budget. (The RHBF is addressed further below.)

The USPS can and does borrow money from the U.S. Treasury via the Federal Financing Bank. Federal statute limits the USPS's annual debt increases to \$3 billion, and the USPS's total debt to \$15 billion (39 U.S.C. 2005(a)).

## The USPS's Financial Difficulties, FY2006-FY2011

### Flattening Then Declining Revenues

After running modest profits from FY2004 through FY2006, the USPS lost \$25.4 billion between FY2007 and FY2011.<sup>4</sup> Were it not for congressional action to reduce a statutorily required

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<sup>1</sup> The term "marketized" refers to a government agency structured to provide goods and services in the manner of a private firm. On marketization as an alternative to privatization, see CRS Report RL33777, *Privatization and the Federal Government: An Introduction*, by Kevin R. Kosar, pp. 23-29.

<sup>2</sup> For further details on the USPS's appropriations, see CRS Report R41340, *Financial Services and General Government (FSGG): FY2011 Appropriations*, coordinated by Garrett Hatch, pp. 64-66.

<sup>3</sup> For further background on the USPS's budget status, see CRS Report RS20350, *Off-Budget Status of Federal Entities: Background and Current Proposals*, by Bill Heniff Jr.; and Office of Management and Budget, *Budget of the U.S. Government Fiscal Year 2012: Appendix* (Washington: GPO, 2011), pp. 1153-1154 and 1282-1286, at <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/appendix.pdf>.

<sup>4</sup> U.S. Postal Service, "2011 Report on Form 10-K" (Washington: USPS, 2011), p. 21; and U.S. Postal Service, *2009 Annual Report* (Washington: USPS, 2009), p. 2.

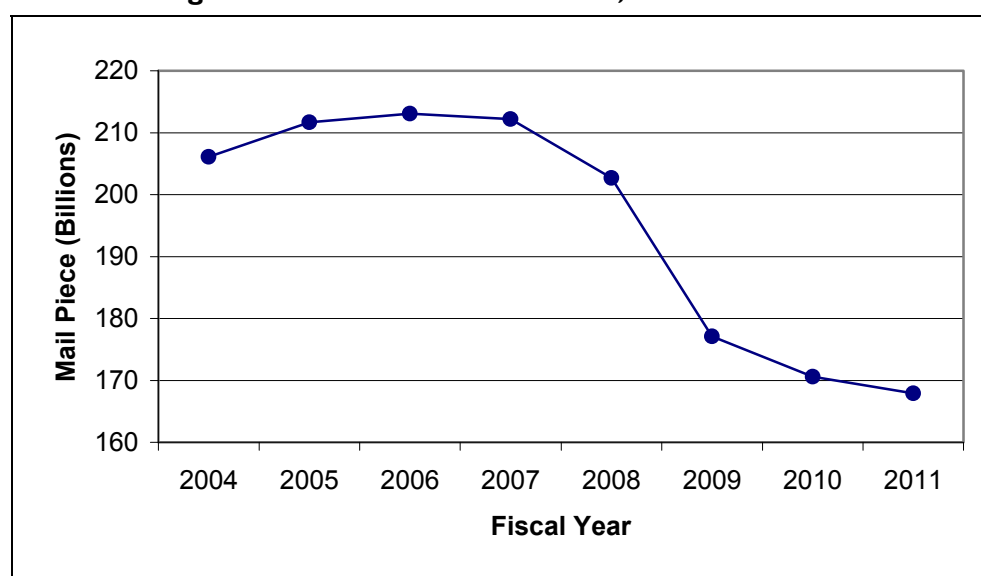
payment to the RHBf, the USPS would have lost an additional \$9.5 billion. (On congressional actions to reduce and delay RHBf payments, see below.)

As the USPS's finances have deteriorated, its ability to absorb operating losses has been diminished. Between FY2005 and FY2011, the USPS's debt rose from \$0 to \$13 billion.<sup>5</sup> (The agency's statutory debt limit is \$15 billion (39 U.S.C. 2005(a)(2)(C)).) In July 2009, the GAO added the USPS's financial condition "to the list of high-risk areas needing attention by the Congress and the executive branch."<sup>6</sup>

Many media headlines have characterized the USPS's recent deficits as the result of a drop in mail volume and attendant postage purchase revenue.<sup>7</sup> This is not entirely accurate. Mail volumes slid from a peak of 213.1 billion mail pieces in FY2006 to 212.2 billion in FY2007, and dropped to 202.7 billion in FY2008. Despite the drop in mail pieces, the USPS's revenues actually held steady during those years—\$72.7 billion, \$74.8 billion, and \$74.9 billion—largely due to postage increases.

However, between FY2009 and FY2011 mail volume declined further. Since FY2008, mail volume has fallen 17.7%, from 202.7 billion to 167.9 billion mail pieces (**Figure 1**), and operating revenues have declined 12.3%, from \$74.9 billion to \$65.7 billion (**Figure 2**).

**Figure 1. The USPS's Mail Volume, FY2004-FY2011**



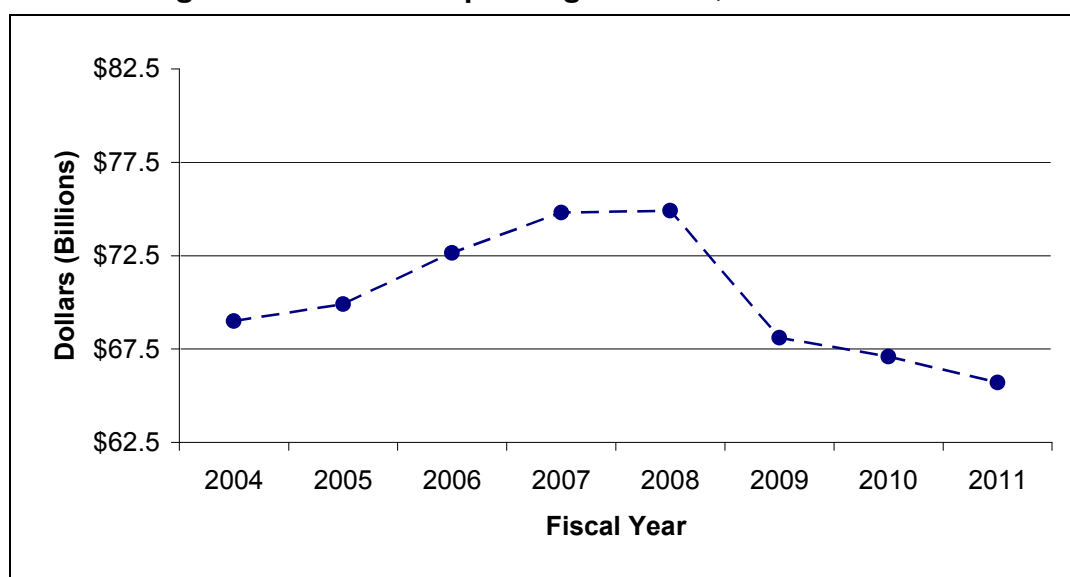
**Source:** U.S. Postal Service, *Annual Reports 2004-2010*; and U.S. Postal Service, "2011 Report on Form 10-K."

<sup>5</sup> U.S. Postal Service, "2011 Report on Form 10-K," p. 37; and U.S. Postal Service, *2007 Annual Report* (Washington: USPS, 2007), p. 3.

<sup>6</sup> Government Accountability Office, *Restructuring the U.S. Postal Service to Achieve Sustainable Financial Viability*, GAO-09-937SP (Washington: GAO, July 28, 2009), p. 1, at <http://www.gao.gov/press/d09937sp.pdf>.

<sup>7</sup> For example, see Associated Press, "Less Snail Mail, More Red Ink at the Post Office," *New York Times*, August 5, 2009, at <http://www.nytimes.com/aponline/2009/08/05/us/politics/AP-US-Postal-Problems.html>; and Ben Rooney, "Postal Service Blames Mail Decline for Loss," *CNNMoney.com*, August 5, 2009, at [http://money.cnn.com/2009/08/05/news/companies/US\\_postal\\_service/](http://money.cnn.com/2009/08/05/news/companies/US_postal_service/).

**Figure 2. The USPS's Operating Revenues, FY2004-FY2011**



Source: U.S. Postal Service, *Annual Reports 2004-2010*; and U.S. Postal Service, "2011 Report on Form 10-K."

## Growing Expenses

During this same period, the USPS has significantly increased operating expenses. A great deal of the rise in costs is attributable in part to the Postal Accountability and Enhancement Act (PAEA).<sup>8</sup> The PAEA established the RHBf and requires the USPS to prefund its future retirees' health benefits at a cost of approximately \$5.6 billion per year (**Table 1**) for 10 years.<sup>9</sup> (Any remaining obligation is to be amortized over the subsequent 40-year period.) In doing this, the PAEA moved the USPS from funding its retirees' health care costs out-of-pocket annually to prefunding these obligations.<sup>10</sup> Using the Office of Personnel Management's (OPM's) valuation methodology, the USPS reported that the unfunded obligation was \$46.2 billion as of the end of FY2011.<sup>11</sup> (As noted later in this report, there has been disagreement as to the size of the USPS's unfunded obligation.)

<sup>8</sup> On the PAEA, see CRS Report R40983, *The Postal Accountability and Enhancement Act: Overview and Issues for Congress*, by Kevin R. Kosar.

<sup>9</sup> P.L. 109-435, §803; 120 Stat. 3251-3252; 5 U.S.C §8909(d)(3)(A).

<sup>10</sup> Put roughly, formerly the USPS calculated the number of retirees annually and then paid its portion of the health premiums due. (USPS retirees also pay a portion.) The PAEA requires the USPS to do this and also to pay annually a portion of the present value of future retiree health benefits of current employees. In accountancy terms, the PAEA moved the USPS from "cash accounting" to "accrual accounting." On these two approaches and their use for accounting for post-retirement benefits, see Financial Accounting Standards Board, "Summary of Statement No. 106," December 1990, at <http://www.fasb.org/st/summary/stsum106.shtml>. See also David M. Walker, Comptroller General, U.S. General Accounting Office, "U.S. Postal Service: Accounting for Postretirement Benefits," GAO-02-916-R, September 12, 2002.

<sup>11</sup> U.S. Postal Service, "2011 Report on Form 10-K," p. 28.

**Table 1. Postal Service Retiree Health Benefits Fund Payments Under PAEA**

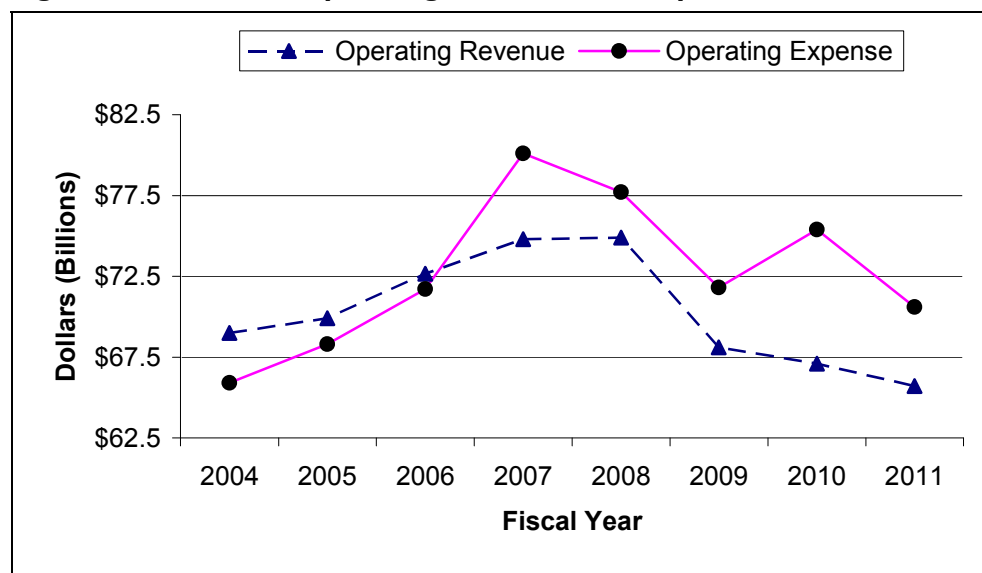
Fiscal Year	Payment Due Per PAEA (billions)	Status of Payment
2007	\$5.4	Paid in full.
2008	\$5.6	Paid in full.
2009	\$5.4	\$1.4 billion paid. <sup>a</sup>
2010	\$5.5	Paid in full.
2011	\$5.5	No payment. <sup>b</sup>
2012	\$5.6	Due September 30, 2012.
2013	\$5.6	Due September 30, 2013.
2014	\$5.7	Due September 30, 2014.
2015	\$5.7	Due September 30, 2015.
2016	\$5.8	Due September 30, 2016.

**Source:** Postal Accountability and Enhancement Act (P.L. 109-435, §803; 120 Stat. 3251-3252; 5 U.S.C §8909(d)(3)(A).)

- a. Congress reduced the FY2009 payment amount from \$5.4 billion to \$1.4 billion (P.L. 111-68).
- b. Congress has delayed the FY2011 payment due date to October 4, 2011 (P.L. 112-33, §124), November 18, 2011 (P.L. 112-36, §124), December 16, 2011 (P.L. 112-55, §101), and then August 1, 2012 (H.Rept. 112-331).

As **Figure 3** shows, the USPS's operating expenses spiked after the USPS began paying into the RHBF in FY2007.

**Figure 3. The USPS's Operating Revenues and Expenses, FY2004-FY2011**



**Source:** U.S. Postal Service, *Annual Reports 2004-2010*; and U.S. Postal Service, "2011 Report on Form 10-K."

Initially, the effects of the PAEA's mandatory payments to the Postal Service Health Benefits Fund on the USPS's profitability were considerable. This may be illustrated with a hypothetical—if the USPS did not have to pay into this fund each year, it would have experienced no operating

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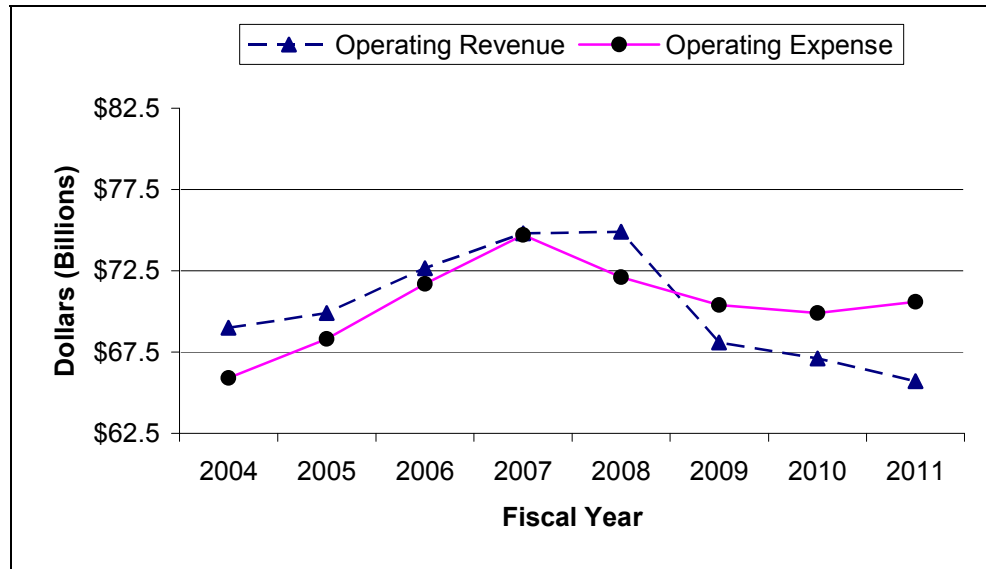


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losses until FY2009. **Figure 4** reproduces **Figure 3** with the annual PAEA payments subtracted from the annual operating expenses. However, despite Congress's reduction of the RHBF payment owed in FY2009 and its delay of the RHBF payment owed in FY2011, the USPS's expenses exceeded its revenues these years.

**Figure 4. The USPS's Operating Income Without the Annual PAEA Payments to the Postal Service Health Benefits Fund, FY2004-FY2011**



**Source:** U.S. Postal Service, *Annual Reports 2004-2010*; U.S. Postal Service, "2011 Report on Form 10-K"; and Postal Accountability and Enhancement Act (P.L. 109-435, §803; 120 Stat. 3251-3252.)

**Note:** The USPS made its first scheduled retiree health benefits fund payment at the end of FY2007.

The USPS will report its FY2012 first quarter financial results in February 2012.<sup>12</sup>

## Liquidity Concerns

At the conclusion of FY2011, the USPS had \$1.5 billion in cash, which is a low level for an agency with an average weekly operating expense of nearly \$1.4 billion.<sup>13</sup>

To conserve cash, the USPS suspended its biweekly \$114 million contribution to the Federal Employee Retirement System (FERS) on June 24, 2011.<sup>14</sup> After seeking an opinion from the Department of Justice on the legality of this action, the USPS reported on November 15, 2011, that it "expected" to resume paying the bi-weekly FERS payment, and that it owed \$911 million as of September 30, 2011.<sup>15</sup>

<sup>12</sup> 39 U.S.C. 3654(a)(1) requires the USPS to file its quarterly financial reports within 40 days of the end of each quarter. Quarter one concludes on December 31, 2011.

<sup>13</sup> U.S. Postal Service, "2011 Report on Form 10-K," p. 32. The USPS had an operating expense of \$70.6 billion during the 52 weeks of FY2011, an amount which equals nearly \$1.4 billion per week. The USPS's operating expense would have been \$76.1 billion had Congress not deferred the due date of the agency's FY2011 RHBF payment.

<sup>14</sup> U.S. Postal Service, "Form 10-Q," p. 9.

<sup>15</sup> U.S. Postal Service, "2011 Report on Form 10-K," p. 34.

One positive development is that the USPS was able to make its \$1.3 billion payment to the Department of Labor for worker's compensation in October 2011.<sup>16</sup> In its FY2011, third quarter financial statement, the USPS had expressed concern that it might not be able to do so, a default that would have had significant negative impact on the worker's compensation fund.<sup>17</sup>

The USPS may bolster its weak cash position by borrowing from the Federal Financing Bank (FFB). By law, the USPS may increase its debt each year by a maximum of \$3 billion, and its total debt may not exceed \$15 billion. The USPS ended FY2011 with \$13.0 billion in debt; so it may borrow \$2.0 billion more from the FFB in FY2012.

## **Congress Alleviated the USPS's Immediate Financial Distress in FY2009 and FY2011**

On September 30, 2009, the last day of FY2009, Congress alleviated the USPS's cash shortage when it enacted H.R. 2918, the Legislative Branch Appropriations Act [of] 2010. President Barack Obama signed the bill into law the next day (P.L. 111-68). Section 164 of the law provided the USPS with an immediate reduction of \$4 billion in operating expenses by reducing the USPS's FY2009 payment to the Postal Retiree Health Benefits Fund from \$5.4 billion to \$1.4 billion. The legislation did not relieve the USPS of this \$4 billion obligation; rather, it deferred the USPS's payment. Come FY2017, the \$4 billion will be added to whatever remaining outstanding health care obligation may exist, and amortized over a 40-year period.

In autumn 2011, Congress again aided the USPS. Congress delayed the due date of the FY2011 payment (\$5.5 billion) to October 4, 2011 (P.L. 112-33, §124), November 18, 2011 (P.L. 112-36, §124), to December 16, 2011 (P.L. 112-55, §101), and then August 1, 2012 (H.Rept. 112-331).

## **Issues for Congress**

The USPS's financial challenges raise difficult questions: Did the USPS simply suffer from a "perfect storm" of high retiree health benefits payments and declining revenue? Or is the USPS, as currently constituted, incapable of responding to a shifting, and possibly declining, market for its products and services?<sup>18</sup>

Answering these questions goes beyond the scope of this report. Nevertheless, a number of ideas for incremental reforms have been put forth that would improve the USPS's financial condition so that it might continue as a self-funding, government agency.

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<sup>16</sup> Ibid., p. 30.

<sup>17</sup> U.S. Postal Service, "Form 10-Q," p. 8; and Brian V. Kennedy, Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Labor, letter to Chairman Darrel Issa, August 1, 2011.

<sup>18</sup> Some observers have suggested that mail volumes will continue to decline because of the substitution of Internet- and World Wide Web-based communications. For example, see President's Commission on the U.S. Postal Service, *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service* (Washington: GPO, July 31, 2003), pp. 6-8. The USPS itself has cited this "electronic diversion" as one of the causes for the decline in mail volumes. U.S. Postal Service, *Ensuring a Viable Postal Service for America* (Washington: USPS, March 2010), p. 2.

## Increasing Revenues

### Altering Postage Rates

In its annual study of the USPS's compliance with federal laws, the Postal Regulatory Commission (PRC) has reported that the USPS carries some types of mail at postage rates that are below their costs.<sup>19</sup> At a May 2010 House of Representatives' hearing,<sup>20</sup> John Waller of the PRC testified that 14 products fell \$1.7 billion short of covering their attributable costs.<sup>21</sup>

Currently, federal law forbids the USPS from increasing postage rates annually higher than the Consumer Price Index (39 U.S.C. 3622(d)(1)(A)) absent "exceptional or extraordinary circumstances." Congress may wish to further examine these disparities and provide the USPS with additional pricing flexibilities that would enable it to recover more revenue.<sup>22</sup>

In a July 6, 2010, filing with the PRC, the USPS stated that a recent sharp decline in mail volume constituted an exceptional or extraordinary circumstance.<sup>23</sup> It asked the PRC to permit it to increase postage rates 5.6%, an amount much higher than the CPI.

The PRC denied the USPS's request on September 30, 2010, essentially arguing that the USPS failed to demonstrate that its professed need to raise rates was produced by "an exceptional or extraordinary circumstance." Instead, the PRC stated "Postal Service's cash flow problem is not a result of the recession and would have occurred whether or not the recession took place. It is the result of other, unrelated structural problems and the proposed exigent rate adjustments would neither solve nor delay those problems."<sup>24</sup>

After the USPS filed suit, a federal court of appeals remanded the matter to the PRC in July 2011, asking the PRC to clarify a technical matter related to the size of permissible exigent rate increases.<sup>25</sup> The USPS has said it will again pursue an exigent rate increase,<sup>26</sup> and that it will raise its prices an amount within the rate cap on January 22, 2012.<sup>27</sup>

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<sup>19</sup> Postal Regulatory Commission, *Annual Compliance Determination* (Washington: PRC, March 30, 2009), pp. 5-6, at [http://www.prc.gov/Docs/62/62784/ACD\\_Report\\_2008\\_FINAL.pdf](http://www.prc.gov/Docs/62/62784/ACD_Report_2008_FINAL.pdf). See also CRS Report R40162, *Postage Subsidies for Periodicals: History and Recent Developments*, by Kevin R. Kosar.

<sup>20</sup> U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and District of Columbia, *The Price is Right, Or Is It? An Examination of USPS Workshare Discounts and Products that Do Not Cover Their Costs*, hearing, 111<sup>th</sup> Congress, 2<sup>nd</sup> sess., May 12, 2010, Serial 111-76 (Washington: GPO, 2010), at <http://www.gpo.gov/fdsys/pkg/CHRG-111hhrg58349/pdf/CHRG-111hhrg58349.pdf>.

<sup>21</sup> Ibid. Testimony of John Waller, Director of Office of Accountability and Compliance, Postal Regulatory Commission, p. 20.

<sup>22</sup> The USPS has asked for increased pricing flexibility. See U.S. Postal Service, *Ensuring a Viable Postal Service for America: An Action Plan for the Future*, pp. 13-14.

<sup>23</sup> U.S. Postal Service, "Exigent Request of the United States Postal Service," July 6, 2010, at <http://www.prc.gov/Docs/68/68792/Request.Final.pdf>, pp. 1-2.

<sup>24</sup> Postal Regulatory Commission, "PRG Denies Postal Service Exigent Rate Request, Decision is Unanimous," press release, September 30, 2010, p. 1, at [http://prc.gov/prc-docs/home/whatsnew/R2010-4%20Press%20Release\\_1393.pdf](http://prc.gov/prc-docs/home/whatsnew/R2010-4%20Press%20Release_1393.pdf).

<sup>25</sup> Postal Regulatory Commission, "PRC Order Gives Guidance to Postal Service on Exigency Rate Case Process," press release, September 20, 2011.

<sup>26</sup> U.S. Postal Service, "Statement on Proceeding with Exigent Pricing Relief," press release, November 7, 2011.

<sup>27</sup> U.S. Postal Service, "Postal Service Announces Shipping Prices for 2012," press release, November 22, 2011.

## **Offering More Nonpostal Products and Services**

Federal postal law limits the USPS to selling postage stamps, stamped paper, cards, envelopes, philatelic services, and ancillary items (39 U.S.C. 102(5); 39 U.S.C. 404(a)(4-5)). The USPS has said that it would like to increase its revenues by offering a broader range of nonpostal products and services, although it has not specified which ones.<sup>28</sup> Congress may wish to consider whether the USPS ought to enter into nonpostal business lines, and whether it could be expected to reap immediate financial gains from doing so.

## **Reducing Costs**

### **Reducing the USPS's RHBf Obligation and Payments**

The USPS has to make six more PAEA-mandated future retiree health benefits payments from FY2011 through FY2016. These remaining payments average more than \$5.6 billion per year and amount to \$33.9 billion. These payments will make up a significant portion (more than 7%) of the USPS's approximately \$75 billion annual operating expenses.

The U.S. Postal Service Office Inspector General (USPSOIG) and the PRC have disagreed on the size of the USPS's future retiree health benefits obligation. Therefore, they came to different conclusions as to the amount the USPS should pay to adequately fund this obligation.

The USPSOIG said that the USPS needs to have \$90.2 billion in the RHBf by the end of FY2016 for it to be adequately funded. The USPSOIG argued that the current PAEA-mandated payment schedule was too aggressive, and that the USPS should pay \$1.6 billion per year through 2016 to fund its obligations.<sup>29</sup>

OPM questioned the assumptions used by the USPSOIG, but it said that it had "no objections to legislative changes that provide for a solution in a manner that does not jeopardize the funding for [postal] employee and retiree benefits."<sup>30</sup>

The PRC reviewed both the USPSOIG's and OPM's assessments, and found merit in both approaches. The PRC suggested that the USPSOIG understated the USPS's liability because it underestimated the inflation rate for health care. The PRC argued that OPM significantly overstated the USPS's liability because it overestimated both the inflation rate for health care and the future USPS workforce size. The PRC estimated that the USPS needs to have \$113.2 billion

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<sup>28</sup> On the PAEA's limitation on the USPS's ability to offer nonpostal products, see CRS Report R40983, *The Postal Accountability and Enhancement Act: Overview and Issues for Congress*, by Kevin R. Kosar, pp. 10-13.

<sup>29</sup> U.S. Postal Service Inspector General, *Final Management Advisory Report—Estimates of Postal Service Liability for Retiree Health Care Benefits* (Washington: USPSOIG, July 22, 2009), at [http://www.uspsoig.gov/foia\\_files/ESS-MA-09-001R.pdf](http://www.uspsoig.gov/foia_files/ESS-MA-09-001R.pdf); and Statement of David C. Williams, Inspector General, U.S. Postal Service Office of Inspector General, in U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, *The U.S. Postal Service in Crisis*, p. 3.

<sup>30</sup> Statement of Nancy H. Kichak, Associate Director for Strategic Resources Policy, U.S. Office of Personnel Management, in U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, *The U.S. Postal Service in Crisis*, p. 4.

in its Retiree Health Benefits Fund by the close of FY2016. It said that the USPS could pay \$3.4 billion per year to achieve this goal.<sup>31</sup>

Congress may wish to reassess the PAEA's payment schedule and the differing calculations of the USPS's obligation. It also may wish to consider reducing the USPS's annual payment by extending the payment schedule or by allowing the USPS to amortize more of the obligation after FY2016.

## **Reducing the USPS's FERS Pension Costs**

Like other federal employees, most current USPS employees participate in the Federal Employee Retirement System. The OPM Inspector General (OPMIG) explains:

[The] FERS is designed to be fully funded by employee and agency contributions. Each year, as required by law, the OPM calculates the Federal Government's and the USPS's liabilities under [the] FERS to see if there is a surplus or a supplemental liability. If there is a supplemental liability, the OPM establishes an amortization schedule so that the liability is paid off completely in 30 years. The statute does not contemplate what would happen should a surplus exist.<sup>32</sup>

The USPS has contended that it has paid \$6.9 billion more into its FERS pensions than is required. It has asked for the funds to be returned to it. The USPS also has justified its recent decision to suspend FERS contributions on the basis that it has overpaid and needs to conserve cash.<sup>33</sup>

The OPMIG has found merit in the USPS's contention but noted that a statute would need to be enacted to authorize the OPM the refund the money.<sup>34</sup>

Congress could either temporarily reduce the USPS's current payment schedule, or it could direct the OPM to refund any overpayment.

## **Reducing the USPS's CSRS Pension Costs<sup>35</sup>**

On January 20, 2010, the U.S. Postal Service Office of Inspector General published a report on the USPS's funding of pension costs for postal workers who were employed by both the U.S. Post Office Department (prior to 1971) and its successor, the U.S. Postal Service.<sup>36</sup> The report

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<sup>31</sup> Postal Regulatory Commission, *Postal Regulatory Commission Review of Retiree Health Benefit Fund Liability as Calculated by Office of Personnel Management and U.S. Postal Service Office of Inspector General* (Washington: PRC, July 30, 2009), p. 22, at [http://www.prc.gov/Docs/63/63987/Retiree%20Health%20Fund%20Study\\_109.pdf](http://www.prc.gov/Docs/63/63987/Retiree%20Health%20Fund%20Study_109.pdf).

<sup>32</sup> Office of Personnel Management Office of Inspector General "A Study of the Risks and Consequences of the USPS OIG's Proposals to Change USPS's Funding of Retiree Benefits," February 28, 2011, p. 23, at [http://www.opm.gov/oig/OPM\\_OIG\\_Study\\_of\\_USPS\\_OIG\\_Proposals%20Feb%2028%202011.pdf](http://www.opm.gov/oig/OPM_OIG_Study_of_USPS_OIG_Proposals%20Feb%2028%202011.pdf).

<sup>33</sup> U.S. Postal Service, "Form 10-Q," p. 9.

<sup>34</sup> Office of Personnel Management Office of Inspector General "A Study of the Risks and Consequences of the USPS OIG's Proposals to Change USPS's Funding of Retiree Benefits," February 28, 2011, pp. 22-25, at [http://www.opm.gov/oig/OPM\\_OIG\\_Study\\_of\\_USPS\\_OIG\\_Proposals%20Feb%2028%202011.pdf](http://www.opm.gov/oig/OPM_OIG_Study_of_USPS_OIG_Proposals%20Feb%2028%202011.pdf).

<sup>35</sup> Much of this section was written by Patrick Purcell, former Specialist in Income Security, Domestic Social Policy Division, Congressional Research Service.

<sup>36</sup> U.S. Postal Service Office of Inspector General, "The Postal Service's Share of CSRS Pension Responsibility," (continued...)

criticized the allocation of the pension costs between the USPS and the federal government for employees who had service both as employees of the Post Office Department and later as employees of the Postal Service.

The USPSOIG report noted that the Postal Service is currently responsible for meeting all pension costs under the Civil Service Retirement System (CSRS) for employees hired after 1971. For employees with service both before and after 1971, the federal government and the Postal Service share responsibility for CSRS pensions. The federal government pays for service through 1971, and the USPS pays for service after 1971.

The USPSOIG report contended that the allocation of CSRS costs between the USPS and the federal government is unfair because the Postal Service is fully responsible for increases in pension costs that result from pay raises granted after 1971. Because CSRS pensions are based on both an employee's years of service and the average of an employee's highest three consecutive years of pay, pension costs rise as employee pay rises. As a consequence, the percentage of CSRS pension costs allocated to the USPS for an employee who worked for both the Post Office Department and the USPS is greater than the proportion of the worker's career that he or she spent as an employee of the USPS. The USPSOIG report notes, for example, that for a person who worked for the Post Office Department for 20 years prior to 1971 and for the USPS for 10 years thereafter, the USPS is obliged to fund about half of this person's pension costs. (The other half is paid for by the U.S. government.)

The USPSOIG report suggested that the USPS's share of CSRS pension costs should be proportional to employees' length of service as USPS employees relative to their total length of service with the Post Office Department and the USPS. If an employee had spent 15 years as an employee of the Post Office Department and 15 years as an employee of the USPS, for example, the federal government and the USPS each would be responsible for half of the cost of that individual's CSRS pension. The USPSOIG's report estimated that under the current method of allocating the costs of CSRS pensions, the Postal Service has paid \$75 billion more into the Civil Service Retirement and Disability Trust Fund than it would have paid if costs were allocated between the federal government and the USPS strictly in proportion to length of service.

In 2004, the Postal Service requested that the OPM, which administers the Civil Service Retirement System, reconsider the method by which it allocates CSRS pension expenses between the Postal Service and the U.S. Treasury. The OPM denied the request on the ground that the allocation method it had developed was consistent with federal law. The OPM cited P.L. 93-349 (July 12, 1974), which required the USPS to finance all increases in retirement liabilities that are attributable to salary increases granted by the USPS. The House committee report accompanying the bill that was enacted as P.L. 93-349 (H.R. 29, 93<sup>rd</sup> Congress) states that the "purpose of this legislation is to clearly establish the responsibility of the U.S. Postal Service to finance increases in the liability of the Civil Service Retirement and Disability Fund, caused by administrative action of the Postal Service, as apart from increases in unfunded liabilities which are incurred by act of Congress." The committee report further states that with respect to any increase in CSRS pension expense that results from future pay raises received by USPS employees, "the cost of this liability should properly and equitably be borne by the Postal Service."

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(...continued)

January 20, 2010, at [http://www.uspsaig.gov/foia\\_files/RARC-WP-10-001.pdf](http://www.uspsaig.gov/foia_files/RARC-WP-10-001.pdf).

A reduction in the proportion of CSRS pension expenses allocated to the Postal Service would increase the unfunded liability of the Civil Service Retirement and Disability Fund. Absent a reduction in the cost of financing CSRS pensions, changing the allocation of CSRS pension expenses between the Postal Service and general fund of the U.S. Treasury is a zero-sum game. A reduction in the amount of CSRS pension expenses allocated to the USPS would result in an equal increase in CSRS pension expenses borne by the U.S. Treasury.

In March 2010, the PRC said that it would examine the USPS's pension liability in response to the USPS's request.<sup>37</sup> The agency hired a private auditor, the Segal Group Inc., to produce a report, which the PRC released publicly on June 30, 2010.<sup>38</sup> The report largely agreed with the conclusion of USPSOIG's January 2010 report; and the PRC has stated that "an adjustment of \$50-\$55 billion in favor of the Postal Service would be equitable."<sup>39</sup>

The OPMIG has contested the USPSOIG's claims.<sup>40</sup> It has said that the current apportionment of the CSRS pension costs is in line with both congressional intent and federal law. Additionally, the OPMIG warned that allowing the USPS to draw back any CSRS pension funds would "create a dangerous precedent" by permitting pension funds to be used for purposes other than the payment of benefits owed.<sup>41</sup> Similarly, the GAO has stated the USPS has not "overpaid" its CSRS obligation, finding, "The current methodology used by OPM for allocating responsibility for CSRS benefits between USPS and the federal government is consistent with applicable law."<sup>42</sup>

## **Reducing the USPS's Contributions Toward Employee Health Premiums and Life Insurance**

In his initial FY2010 budget, President Barack Obama proposed requiring USPS employees to pay the same percentage towards their health premiums and life insurance as other federal workers.<sup>43</sup> (USPS employees pay approximately 21% of their health care premium costs and 0% of their life insurance premiums, while other federal employees pay 28% and 67%, respectively.)<sup>44</sup> The Administration estimated this new policy would save the USPS \$752 million in FY2010 and \$9.5 billion in the period of FY2010 to FY2019.<sup>45</sup>

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<sup>37</sup> Postal Regulatory Commission, "PRC Initiates Review of USPS Pension Liability," press release, March 2, 2010, at [http://prc.gov/prc-docs/home/whatsnew/PRC%20Review%20of%20USPS%20CSRS%20liability\\_604.pdf](http://prc.gov/prc-docs/home/whatsnew/PRC%20Review%20of%20USPS%20CSRS%20liability_604.pdf). Federal law directs the PRC to conduct a review upon request from the USPS (5 U.S.C. 8348 note).

<sup>38</sup> The Segal Group, Inc., *Report to the Postal Regulatory Commission: Civil Service Retirement System Cost and Benefit Allocation System*, June 29, 2010, at [http://www.prc.gov/prc-docs/home/whatsnew/Report%20on%20CSRS%20Cost%20and%20Benefit%20Allocation%20Principles\\_1122.pdf](http://www.prc.gov/prc-docs/home/whatsnew/Report%20on%20CSRS%20Cost%20and%20Benefit%20Allocation%20Principles_1122.pdf).

<sup>39</sup> Postal Regulatory Commission, "PRC Report Finds \$50 Billion Discrepancy," press release, June 30, 2010, at [http://www.prc.gov/prc-docs/home/whatsnew/PRC%20issues%20study%20of%20USPS%20CSRS%20liability%20draft%20\(2\)\\_1119.pdf](http://www.prc.gov/prc-docs/home/whatsnew/PRC%20issues%20study%20of%20USPS%20CSRS%20liability%20draft%20(2)_1119.pdf).

<sup>40</sup> Office of Personnel Management Office of Inspector General "A Study of the Risks and Consequences of the USPS OIG's Proposals to Change USPS's Funding of Retiree Benefits."

<sup>41</sup> *Ibid.*, p. ii.

<sup>42</sup> Government Accountability Office, *U.S. Postal Service: Allocation of Responsibility for Pension Benefits between the Postal Service and the Federal Government*, GAO-112-146, October 2011, p. 1, at <http://www.gao.gov/new.items/d12146.pdf>.

<sup>43</sup> Office of Management and Budget, *Budget of the U.S. Government, Fiscal Year 2010: Summary Tables*, March 2009, Table S-6, p. 126, at <http://www.whitehouse.gov/omb/assets/documents/S-6.pdf>.

<sup>44</sup> "Union Negotiations Are Critical for USPS Future," *Postcom Bulletin: The Journal of Postal Commerce*, September 3, 2010, p. 4. See also Government Accountability Office, *Restructuring the U.S. Postal Service to Achieve Sustainable* (continued...)

A study released by the USPSOIG in September 2010 suggested the USPS could save \$700 million per year were its employees required to contribute at the same rate as other federal employees.<sup>46</sup>

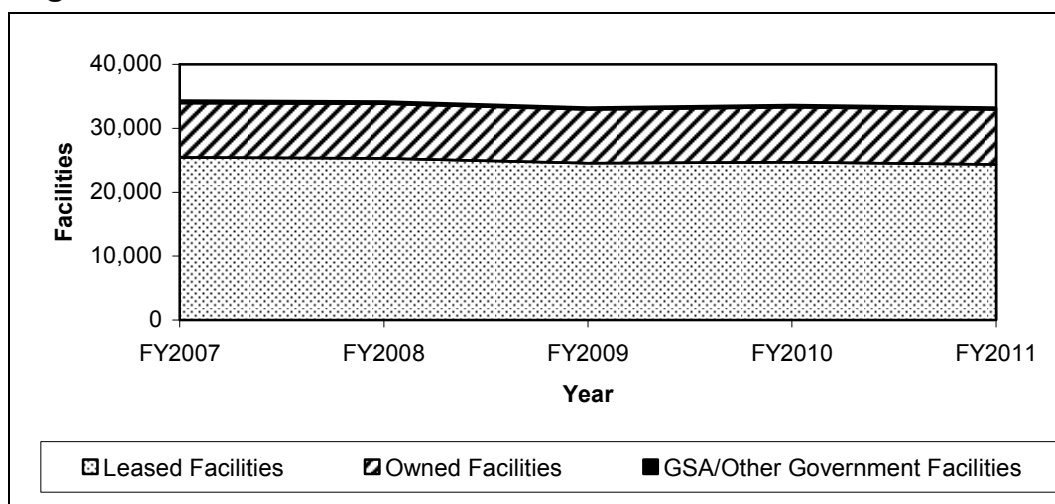
## Reducing the USPS's Retail and Nonretail Facilities

GAO has testified repeatedly that the USPS has not reduced its number of retail postal facilities and mail processing plants sufficiently:

Excess capacity has grown with unprecedented declines of mail volume, which are projected to continue through fiscal year 2010.... [A]s its mail volumes decline, [the] USPS does not have sufficient revenues to cover the growing costs of providing service to new residences and businesses while also maintaining its large network of retail and processing facilities.<sup>47</sup>

The PAEA was enacted in the first quarter of FY2007. The USPS has reduced its facility footprint<sup>48</sup> 3.1%, from 34,318 to 33,260 (**Figure 5**).

**Figure 5. U.S. Postal Service Retail and Non-Retail Facilities, FY2007-FY2011**



**Source:** U.S. Postal Service, Annual Report 2007, p. 19 and "2011 Report on Form 10-K," p. 11.

(...continued)

*Financial Viability*, GAO-09-958 (Washington: GAO, August 6, 2009), p. 5, at <http://www.gao.gov/new.items/d09958t.pdf>.

<sup>45</sup> Reportedly, the proposal was dropped because of concerns that it would violate collective bargaining. Darrell A. Hughes, "Obama Admin Halts Plans To Alter US Postal Workers' Benefits," *Wall Street Journal* (online), May 11, 2009, at <http://online.wsj.com/article/BT-CO-20090511-719565.html>.

<sup>46</sup> U.S. Postal Service Office of Inspector General, "Management Advisory—Follow-Up Review of the Postal Service's Employee Benefit Programs," HR-MA-10-001, September 3, 2010, at [http://www.uspsoig.gov/FOIA\\_files/HR-MA-10-001.pdf](http://www.uspsoig.gov/FOIA_files/HR-MA-10-001.pdf).

<sup>47</sup> Government Accountability Office, *Restructuring the U.S. Postal Service to Achieve Sustainable Financial Viability*, pp. 3-4.

<sup>48</sup> Here, facility footprint refers to the number of USPS leased and owned facilities. The facility footprint does not include contract postal units and community post offices, which are owned and operated by private individuals.

**Notes:** The GSA/Other Government Facilities category refers to facilities owned by government agencies other than the USPS.

In late July 2011, the USPS announced it was considering the closure of 3,652 retail postal facilities. These are not the only USPS facilities that might discontinue operations. An additional 728 retail postal facilities are being considered for closure under a 2009 USPS initiative, for a total of 4,380 USPS retail facilities.<sup>49</sup>

Congress may wish to consider providing the USPS with additional authority to reduce its facilities.

As a related matter, both houses of Congress also may wish to consider enacting rules to prevent congressional intervention in proposed mail facility closures.<sup>50</sup> Alternatively, Congress might enact a law to authorize appropriations to reimburse the USPS for cost-savings lost because of congressionally imposed delays in facilities closures.

## **Reducing Mail Delivery from Six to Five Days Per Week**

GAO has suggested that Congress consider permitting the USPS to reduce its delivery schedule from six to five days, a policy with which the USPS concurs.<sup>51</sup>

Nothing in Title 39 of the *U.S. Code* (which holds most federal postal law) requires the USPS to deliver mail six days per week. However, since 1984 Congress has included a provision in its annual appropriation to the USPS stating that “6-day delivery and rural delivery of mail shall continue at not less than the 1983 level” (e.g., P.L. 111-117; 123 Stat. 3200). The PRC has observed that the precise meaning of this mandate “could be subject to a number of interpretations, including requiring 6-day delivery in all areas which had it in 1983, or requiring the same percentage of recipients of 6-day delivery as in 1983.”<sup>52</sup> To date, the USPS has treated the language to mean that it lacks the authority to move to five-day mail until Congress ceases including the six-day mail provision in annual appropriations.

Since 2008, four studies (two by the USPS and two by the PRC) have examined the possible financial effects of a switch from six-day to five-day delivery.<sup>53</sup> The studies all estimate that the

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<sup>49</sup> CRS Report R41950, *The U.S. Postal Service: Common Questions About Post Office Closures*, by Kevin R. Kosar, pp. 3-4.

<sup>50</sup> For example, see S.Rept. 111-43, Financial Services and General Government Appropriations Bill, FY2010, p. 131. “The Committee is aware that the Quincy, Illinois AMP [Area Mail Processing plant] is among the facilities for which a possible realignment feasibility study has been announced. The Committee is concerned about the impact on the community and postal customers of eliminating jobs or transferring functions. The Committee directs the Postal Service to provide the Committee with a detailed explanation of the criteria used to select the Quincy AMP for a study no later than 30 days after enactment. The Committee further directs the Postal Service to not proceed with the Quincy AMP study or any other related actions to implement that study during fiscal year 2010.”

<sup>51</sup> Statement of Phillip Herr, Director, Physical Infrastructure, Government Accountability Office, *U.S. Postal Service: Deteriorating Postal Finances Require Aggressive Actions to Reduce Costs*, p. 11; U.S. Postal Service, *Ensuring a Viable Postal Service for America*, p. 11, and U.S. Postal Service, “Five-Day Delivery” web page, at <http://www.usps.com/communications/five-daydelivery/>.

<sup>52</sup> Postal Regulatory Commission, *Report on Universal Postal Service and the Postal Monopoly* (Washington: PRC, 2008), p. 196, at <http://www.prc.gov/prc-docs/home/whatsnew/USO%20Report.pdf>.

<sup>53</sup> U.S. Postal Service, *Report on the Universal Postal Service and the Postal Monopoly* (Washington: USPS, October 2008); Postal Regulatory Commission, *Report on the Universal Postal Service and the Postal Monopoly*; U.S. Postal Service, *Delivering the Future: Five-Day Delivery is Part of the Solution*; and Postal Regulatory Commission, (continued...)

USPS would save money by reducing the days of delivery from six to five, as the cost savings (largely due to reduced labor expenses) will exceed any decline in revenues due to lower demand for mail prompted by a reduced delivery schedule. The studies suggest an annual improvement to the USPS's financial condition that would be between \$1.7 billion to \$3.5 billion.<sup>54</sup> (No studies have argued the contrary—that moving to five-day delivery would increase costs.) The USPS's five-day delivery plan does not say how long it would take to implement five-day delivery and begin reaping any savings.<sup>55</sup> The USPS did note that it would provide at least six months' notice prior to switching to five-day delivery.<sup>56</sup>

On March 30, 2010, the USPS asked the PRC for an advisory opinion on reducing delivery to five days. By law, the USPS must ask the PRC for an opinion when the USPS “determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis ... within a reasonable time prior to the effective date of such proposal” (39 U.S.C. 3661). Under PRC rules, a “reasonable time” is defined at “not less than 90 days” (39 CFR 3001.72). PRC Chairman Ruth Goldway suggested in a March 2010 hearing that the PRC may require six to nine months to issue its opinion.<sup>57</sup> The PRC issued its advisory opinion in March 2011, which suggested cutting Saturday delivery would reduce the USPS's annual operating costs \$1.7 billion.

### **Increasing the USPS's Powers to Control Labor Costs**

Critics have long argued that the USPS is required to be self-supporting but that federal law provides it with very few authorities to control its employment costs—which make up approximately 80% of its total operating costs.<sup>58</sup> For example, in 2003 the President's Commission on the United States Postal Service noted that “postal workers enjoy special status within the federal workforce. They are granted the right to negotiate wages, hours, and workplace conditions through collective bargaining.”<sup>59</sup> By law, the USPS is required to “maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector” (39 U.S.C. 1003(a)). The commission further argued that the current statutory process for resolving disputes between management and labor frequently results in arbitrators being empowered to make

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(...continued)

*Advisory Opinion On the Elimination of Saturday Delivery* (Washington, PRC: March 24, 2011), Docket No. N2010-1.

<sup>54</sup> CRS Report R40626, *The U.S. Postal Service and Six-Day Delivery: Issues for Congress*, by Wendy Ginsberg.

<sup>55</sup> U.S. Postal Service, *Delivering the Future: Five-Day Delivery Is Part of the Solution* (Washington: USPS, March 2010), pp. 22-23.

<sup>56</sup> *Ibid.*, p. 2 of executive summary.

<sup>57</sup> Statement of Ruth Goldway, Chairman of the Postal Regulatory Commission, in U.S. Congress, Senate Committee on Appropriations, Subcommittee on Financial Services and General Government, *An Act Making Appropriations for Financial Services and General Government for the Fiscal Year Ending September 30, 2011, and for Other Purposes*, 111<sup>th</sup> Congress, 2<sup>nd</sup> sess., March 18, 2010, S. Hrg. 111-817 (Washington, GPO: 2010), p. 41, at <http://www.gpo.gov/fdsys/pkg/CHRG-111shrg54968/pdf/CHRG-111shrg54968.pdf>.

<sup>58</sup> Government Accountability Office, *Restructuring the U.S. Postal Service to Achieve Sustainable Financial Viability*, p. 2.

<sup>59</sup> For example, see President's Commission on the United States Postal Service, *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service: Report of the President's Commission on the United States Postal Service* (Washington: GPO, July 31, 2003), p. 108, at <http://www.ustreas.gov/offices/domestic-finance/usps/pdf/freport.pdf>.

A Practical Guide to Parlaying an Understanding of Congressional Folkways and Dynamics into Successful Advocacy on Capitol Hill

How to Spend  
Less and Get More  
from Congress:  
Candid Advice  
for Executives

By Joseph Gibson



# Persuading Congress

binding decisions that favor employees (e.g., postal workers pay lower premiums for their health insurance and are protected from layoffs.)<sup>60</sup>

The USPS has relied upon attrition to reduce its workforce from 696,138 to 557,251 between FY2006 and FY2011.<sup>61</sup> The USPS also has used early retirement incentives and buy-outs to lower its employment cohort. In FY2009, 20,100 of its unionized employees accepted early retirement offers, and in FY2010 approximately 1,850 of its administrative employees accepted buy-outs.<sup>62</sup> In August 2011, the USPS asked Congress to enact a statute to authorize it to override collective bargaining prohibitions on layoffs so as to enable the USPS to eliminate an additional 120,000 positions by FY2015.<sup>63</sup>

Congress may wish to consider measures that would provide the USPS with increased means to control its long-term labor costs.<sup>64</sup>

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<sup>60</sup> For example, see *Collective Bargaining Agreement Between American Postal Workers Union, AFL-CIO and U.S. Postal Service*, November 21, 2006-November 20, 2010 (Washington: APWU, 2006), pp. 9-18, at <http://www.apwu.org/dept/ind-rel/sc/APWU%20Contract%202006-2010.pdf>.

<sup>61</sup> U.S. Postal Service, *Annual Report 2010*, p. 83; and “2011 Report on Form 10-K,” p. 81.

<sup>62</sup> U.S. Postal Service, *Annual Report 2009*, p. 54; and U.S. Postal Service, 10-Q, p. 25.

<sup>63</sup> U.S. Postal Service, “Workforce Optimization,” white paper, August 2011, at [http://about.usps.com/news/national-releases/2011/pr11\\_wp\\_workforce\\_0812.pdf](http://about.usps.com/news/national-releases/2011/pr11_wp_workforce_0812.pdf). The USPS also has asked Congress to permit it to move its workforce off the federal government’s health insurance and retirement programs. U.S. Postal Service, “Health Benefits and Retirement Programs,” white paper, August 2011, at [http://about.usps.com/news/national-releases/2011/pr11\\_wp\\_hbretirees\\_0812.pdf](http://about.usps.com/news/national-releases/2011/pr11_wp_hbretirees_0812.pdf).

<sup>64</sup> The 2003 presidential commission on the USPS advocated this goal. President’s Commission on the United States Postal Service, *Embracing the Future*, pp. 138-140.

## Appendix.

**Table A-1** provides digests of the major provisions of two of the postal reform bills introduced into the 112<sup>th</sup> Congress, H.R. 2309 (sponsor Representative Darrell Issa),<sup>65</sup> and S. 1789 (sponsor Senator Joseph Lieberman).<sup>66</sup> The leftmost column identifies the “topic” of the legislative provision, and the remaining three columns identify the corresponding provisions in the two bills and provide concise digests thereof. In the instances where particular topics are not addressed by bills, the table cells read “n/a” for “not addressed.”

**Table A-1** employs these acronyms:

- BRAC (base realignment and closure commission)
- CSRS (Civil Service Retirement System)
- FECF/FECA (Federal Employees Compensation Fund/Federal Employees Compensation Act)
- FEGLI (Federal Employee Group Life Insurance)
- FEHB (Federal Employees Health Benefits program)
- FERS (Federal Employee Retirement System)
- OPM (Office of Personnel Management)
- PMG (Postmaster General)
- PRC (Postal Regulatory Commission)
- PSF (Postal Service Fund)
- RIF (Reduction-in-Force)
- RHBF (Retiree Health Benefits Fund)
- USPS (U.S. Postal Service)
- USPSOIG (U.S. Postal Service Office of Inspector General)

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<sup>65</sup> The bill used in this analysis is H.R. 2309 as reported by the House Oversight and Governmental Affairs Committee on January 17, 2012 (H.Rept. 112-363, Part 1).

<sup>66</sup> The bill used in this analysis is a draft copy of S. 1789 as ordered to be reported by the Senate Committee on Homeland Security and Governmental Affairs on November 9, 2011.

**Table A-1. Side-by-Side Digests of Selected Postal Reform Bills**

Topic	H.R. 2309 (Issa)	S. 1789 (Lieberman)
<b>Title</b>	Sec. 1. Would short title the bill the Postal Reform Act of 2011.	Sec. 1. Would short title the bill the 21 <sup>st</sup> Century Postal Service Act of 2011.
<b>Postal organization</b>	Sec. 201-232. Would amend 39 U.S.C. to establish a USPS Financial Responsibility and Management Assistance Authority (herein “Authority”) that would come into existence in the event of a USPS default upon an obligation owed to the U.S. Treasury. The Authority would have the purposes of eliminating the USPS’s budget deficits and ensuring the USPS’s “long-term financial, fiscal, and economic vitality and operational efficiency.” At the onset of a control period, the USPS would receive \$10 billion in additional borrowing authority. During the first two years of this “control period,” the Authority would serve in an advisory capacity to the USPS. If after the second fiscal year the USPS has run a deficit of \$2 billion or more, the Authority would assume the powers and responsibilities of the USPS’s Board of Governors. It would approve the budget of the USPS (as proposed by the PMG). If the Authority and PMG ultimately cannot agree upon a budget, the Authority may devise the USPS’s budget. A control period would end after two consecutive fiscal years of USPS’s operation without deficits. The Authority would be required to annually report to Congress on its activities and the progress of the USPS.	n/a
<b>FERS</b>	Sec. 306. Would amend 5 U.S.C. 8423(b) to transfer any excess FERS payment as of September 30, 2010 to the USPS within two weeks of H.R. 2309’s enactment, but subtracting therefrom any funds owed to CSRS by the USPS as of September 30, 2010 and any USPS nonpayments to FERS during FY2011 and FY2012.	<p>Sec. 101. Would amend 5 U.S.C. 8423(b), 8332, and 8411 to: require the OPM annually to calculate and transfer back any excess USPS FERS payments; and to require “a portion” of any FERS payments refunded for FY2011-FY2013 to be used to pay the cost for \$25,000 voluntary separation incentive payments.</p> <p>Sec. 102. Would provide up to one additional year of service credit to USPS employees covered by the CSRS who voluntarily separate from service before October 1, 2014 and do not otherwise receive a voluntary separation incentive payment. Also would provide up to two years of additional service credit for USPS employees covered by the FERS who voluntarily separate from service before October 1, 2014 and do not otherwise receive a voluntary separation incentive payment.</p>

Topic	H.R. 2309 (Issa)	S. 1789 (Lieberman)
<b>RHBF</b>	Sec. 410. Would amend 5 U.S.C. 8909a to change the USPS's RHBF payments thus:  FY2011 from \$5.5 billion to \$1.0 billion,  FY2015 from \$5.7 billion to \$7.95 billion; and  FY2016 from \$5.8 billion to \$8.05 billion.	Sec. 103. Would amend 5 U.S.C. 8909a to strike the required USPS RHBF payments in the years FY2011 to FY2016; and would require the OPM to calculate the USPS's annual payments required to retire 80% of the outstanding obligation for current employees' future retirement health benefits.
<b>USPS facilities BRAC</b>	Sec. 101-114. Would amend 39 U.S.C. to create a BRAC-like Commission on Postal Reorganization (CPR) 90 days after enactment of H.R. 2309. With the aid of the USPS and USPSOIG, the CPR must recommend the closure of post offices and non-retail facilities so as to save \$3 billion within two years. Congress would be able to stop the closures by passing a joint resolution of disapproval.	n/a
<b>USPS non-retail facilities closures</b>	See BRAC provision above.	Sec. 201-202. Would amend 39 U.S.C. 404 and 39 U.S.C. 3691 to expand the current statutory process for the closure of mail processing facilities. Would require the USPS—during the area mail processing closure process—to include in its closure study a plan to reduce the capacity of a facility rather than to close it. Also would set public comment period, public notification requirements, and obligate the USPS to take actions to “mitigate any negative effects” on an affected community.  Sec. 203. Would amend 39 U.S.C. to require the USPS to submit a plan to Congress that sets forth a comprehensive strategy for consolidating USPS area and district offices. Also would require such consolidations to begin not more than one year after enactment of S. 1789.

By Bradford Fitch

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Topic	H.R. 2309 (Issa)	S. 1789 (Lieberman)
<b>USPS's authority to close post offices</b>	<p>Section 112. Would amend 39 U.S.C. 101(b) thus: "The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining"; and "No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.";</p> <p>Would amend 39 U.S.C. 404(d) to: (1) expand the definition of the term "post office" to include post office branches, stations, and other USPS-operated retail facilities; (2) shorten the PRC's deadline for reviewing a post office closure appeal from 120 to 60 days; (3) disallow a public appeal of a post office closure if a contract post office is located within two miles of said post office; and (4) conform to 39 U.S.C. 101(b) as amended by Sec. 112.</p>	<p>Sec. 204. Would amend 39 U.S.C. 404 to require the USPS to consider a range of options other than closing a post office (e.g., reducing its operational hours) and survey the community on its preference. Also would make the closure process applicable to post office branches and stations, and require the USPS to develop within six months retail service standards in order to guarantee rural and small-town USPS customers "regular and effective access to retail postal services." Also would forbid the closure of any post office until the retail service standards were established.</p>
<b>Mail delivery</b>	<p>Sec. 111. Would authorize the USPS to move to five-day delivery. Also would amend 39 U.S.C. 101 to permit the USPS to reduce delivery by declaring up to 12 non-mail delivery days each during any year when six-day delivery is required by statute.</p> <p>Sec. 214. Would empower the Authority during a control period to achieve \$3.5 billion in USPS operational savings by shifting deliveries made to mail receptacles at persons' doors to centralized or curb-side mail receptacles. The USPSOIG would be required to audit the USPS's compliance with this requirement.</p>	<p>Sec. 205. Would amend 39 U.S.C. 36 to authorize the USPS to shift mail delivery from receptacles at persons' doors to curb-side, sidewalk, or centralized delivery receptacles. Also would require the USPS annually through FY2015 to report to the Congress and the USPSOIG on its progress toward such conversions, and provide estimates of any resultant cost savings, revenue loss, or decline in the value of the mail.</p> <p>Sec. 206. Would forbid the USPS from shifting to five-day per week mail delivery for two years. Also would require the USPS to meet "preconditions" before doing so, including the need to show that the necessity of moving to five-day delivery in order to become profitable by FY2015 and to achieve "long-term financial solvency." Both the GAO and PRC must conduct studies affirming the USPS has met the necessary preconditions.</p>
<b>Mailing and service changes</b>	<p>Sec. 112. Would amend 39 U.S.C. 3661 to require 90-day PRC reviews when: (1) the USPS proposes facility closures that would constitute a change in the nature of postal services which will affect service nationwide; and (2) on any matter that is "identical or substantially identical" to a matter on which the PRC has issued an opinion within the previous five years.</p>	<p>Sec. 207. Would amend 39 U.S.C. 3661 to require 90-day PRC reviews when the USPS proposes a change in the nature of postal services that will affect service nationwide.</p> <p>Sec. 208. Would establish notice and opportunity to comment periods for mailers when the USPS proposes "significant" changes to mailing specifications. Also would require the USPS to publish an analysis that considers the financial effects the proposed changes would have on mailers.</p>

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<b>Employee compensation, retirement, and collective bargaining</b>	<p>Sec. 301. Would amend 39 U.S.C. 101(c) and 1003(a) to redefine “compensation” to include a wider range of benefits already provided by the USPS to its employees. (39 U.S.C. 101 and 1003(a) require the USPS to have compensation and benefits for its employees comparable to the private sector.)</p> <p>Sec. 302. Would amend 39 U.S.C. 1003 to require USPS employees to pay premiums for their FEGLI and FEHB benefits equal to the percentage paid by other federal employees. Would phase in this policy after collective bargaining agreements expire.</p> <p>Sec. 303. Would repeal 39 U.S.C. 1005(f) requiring USPS employees to receive fringe benefits not less than those received when the USPS was established in 1970.</p> <p>Sec. 304. Would amend 39 U.S.C. 1206 to forbid collective bargaining agreements to contain provisions restricting the RIF provisions in 5 U.S.C. Would permit said agreements to contain RIF provisions in lieu of those found in 5 U.S.C. Also would require existing collective bargaining agreements that restrict the aforementioned RIF provision to be renegotiated within nine months of enactment of this legislation.</p> <p>Sec. 305. Would amend 39 U.S.C. 1207(c) to alter the collective bargaining process to encourage USPS unions and management to reach agreements without going to arbitration. Would amend the arbitration process to require any final collective bargaining package to: (1) comply with the definition of pay comparability as defined by H.R. 2309, Section 301; and (2) consider the current and long-term financial condition of the USPS.</p> <p>Sec. 311. Would authorize the Authority to direct the USPS to design a workers’ compensation program that would transition any USPS employee receiving workers’ compensation to retirement benefits when the employee reached retirement age.</p>	<p>Sec. 104. Would authorize the USPS and its unions to collectively bargain to establish a health benefits program in lieu of the FEHB. Would require the OPM Director to be consulted during said collective bargaining.</p> <p>Sec. 105. Would replace text in 39 U.S.C. 1207(c)(2) reading “The arbitration board shall render its decision within 45 days after its appointment” with “The arbitration board shall render a decision not later than 45 days after the date of its appointment.” Also would require the arbitration board to consider the USPS’s financial condition and the “requirements relating to pay and compensation comparability” at 39 U.S.C. 1003(a).</p> <p>Sec. 301-315. Would amend 5 U.S.C. to make many changes to FECA for all civilian federal employees, including postal workers.</p> <p>Sec. 302-308 would: (1) reduce compensation for total disability from 66 2/3% of an employee’s monthly pay (at the time of disability) to 50% when the employee reaches the Social Security retirement age. Compensation for partial disability would be based on this new rate of 50% when the employee reaches retirement age. This change would not affect employees who have reached retirement age before enactment of the legislation or who, at enactment, are receiving FECA compensation for permanent total disabilities. This provision would take effect for current FECA beneficiaries when they reach Social Security retirement age or three years after enactment, whichever is later; (2) eliminate the augmented FECA compensation which raises compensation for total disability to 75% of salary if the employee has a spouse or dependent. Would make all FECA compensation based on a rate of two-thirds of the monthly wage before retirement age and 50% of the monthly wage after retirement age. This provision would not apply to current beneficiaries with permanent total disabilities, and would apply after three years for current FECA beneficiaries with total (but not permanent) disabilities;</p> <p>(Continued on the next page.)</p>

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<b>Employee compensation, retirement, and collective bargaining (continued)</b>		<p>(3) change the benefit formula for permanent partial disabilities under the FECA benefit schedule such that scheduled benefits for all employees would now be paid as a lump sum based on two-thirds of the “annual salary” calculated by the Department of Labor, rather than on 66 2/3% or 75% (in the case of augmented compensation) of each employee’s monthly wage at the time of disability. The annual salary will be such that the aggregate of all scheduled benefits paid under this new provision is equal to the aggregate of all scheduled benefits that would have been paid under the old provision and the annual salary will be adjusted annually to reflect growth in the cost-of-living; and (4) move the three-day waiting period for compensation to prior to the continuation of pay period—a provision already in effect for USPS employees.</p> <p>Sec. 309-315 would: (1) increase the vocational rehabilitation requirements under FECA, and permit the Department of Labor to use FECA funds to reimburse, for up to three years, public and private employers who hire FECA beneficiaries; (2) increase from \$3,500 to \$50,000 the maximum payment for facial disfigurement and increase from \$800 to \$6,000 the maximum reimbursement for funeral expenses for covered deaths; (3) permit the federal government to recover costs associated with continuation of pay from responsible third parties; (4) strengthen the work reporting requirements for beneficiaries; (5) establish a disability management review process with scheduled physical examinations of beneficiaries; and (6) establish a FECA Integrity and Compliance Program to prevent, detect, and recover fraudulent and improper FECA payments.</p>

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<b>Revenues, postage, and ratemaking</b>	<p>Sec. 401-403. Would amend 39 U.S.C. 3622(d) and 39 U.S.C. 3626(a)(5) to require postage for each market-dominant mail class to cover not less than 90% of its processing and delivery costs. Would progressively decrease the postage discounts that nonprofit advertising mailers receive from 40% off the comparable for-profit postage cost to 20% off. (Said increase would begin three years after enactment of H.R. 2309 and occur at a rate of 2% per year.) Also would repeal 39 U.S.C. 3626(c), which provides reduced postage for political committee mailings.</p> <p>Sec. 404-406. Would amend 39 U.S.C. 3633 and 3632(b) to require the PRC to: (1) make regulations allowing streamlined review of service agreements for competitive products; and (2) determine whether each group of functionally equivalent service agreements covered its cost and improved the net financial position of the USPS.</p>	<p>Sec. 401. Would amend 39 U.S.C. to require the USPS annually through FY2015 to provide Congress with a “profitability plan” describing what steps need be taken for the USPS to become profitable by FY2015 and to “achieve long-term financial solvency.”</p> <p>Sec. 402. Would amend 39 U.S.C. to require the PRC to annually report on market-dominant products that do not bear their direct and indirect attributable costs, and the impact of any excess mail processing, transportation, or delivery capacity have upon these costs. Also would require the USPS to annually attempt to increase gradually the postage for any market-dominant products that fail to cover their costs.</p>
<b>USPS’s provision of postal and nonpostal products and services</b>	<p>Sec. 407. Would amend 39 U.S.C. to include a chapter that would expand the USPS’s authority to offer nonpostal services. Would authorize the USPS to: (1) accept private firm advertisements on USPS vehicles and in USPS facilities; (2) contract with state governments and federal agencies to provide services. Also would require the USPS to report to the PRC on its provision of these products. The USPSOIG would audit this report, and submit its findings to the PRC, which then would include an examination of the USPS’s nonpostal services provision in its Annual Compliance Review of the USPS.</p> <p>Sec. 408. Would require the State of Alaska annually to reimburse the USPS for the costs of providing bypass mail service.</p>	<p>Sec. 209. Would amend 39 U.S.C. 404(a) to permit the USPS to provide “other services that are not postal services” after the PRC determines that doing so would utilize the USPS’s “processing, transportation, delivery, retail network, or technology” and would be “consistent with the public interest.” Also would permit the USPS to contract with federal and state agencies to provide services.</p> <p>Sec. 404. Would amend 18 U.S.C. 1154(a), 18 U.S.C. 1716(f), and 39 U.S.C. 3001 to permit the USPS to deliver beer and wine from breweries and wineries to customers.</p> <p>Sec. 403. Would amend 39 U.S.C. 411 to permit the USPS to enter intra-service agreements with other federal agencies and state agencies to provide each other with property and services.</p>

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<b>USPS and PRC contracting</b>	Sec. 501. Would amend 39 U.S.C. to create a Chapter 7 to require: (1) the USPS and PRC to establish competition advocates to review their procurement activities and promote competition; (2) contracting authorities to be responsible for contracting done by delegates, and to disclose covered relationships as defined under 5 CFR 2635.50; (3) publication of noncompetitive contracts on PRC.gov; (4) publication of the USPS's rationale for the award of noncompetitive contracts; (5) yearly reports by the competition advocates on their activities, barriers to competition for contracts, and noncompetitive contracts waivers; and (6) the voidance of contracts issued unlawfully and penalties therefore.	Sec. 407. Nearly identical to H.R. 2309, Sec. 501. Would forbid the USPS from entering "into any contract that restricts the ability of Congress to exercise oversight authority."
<b>USPS productivity reporting</b>	Sec. 114. Would amend 39 U.S.C. 3652(a) to require the USPS's annual report to the PRC to include metrics of productivity and the effects of productivity changes on costs.	n/a
<b>Mailing industry report</b>	n/a	Sec. 405. Would require the PRC to report annually on the fiscal stability of the U.S. mailing industry to Congress.
<b>Appropriations</b>	Sec. 409. Would amend 39 U.S.C 2041(b)-(d) to strike the provisions authorizing appropriations to the USPS for fulfilling the public service obligation and revenue forgone.	n/a

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