
ANALYSIS OF POSTAL REFORM LEGISLATION

H.R. 4 (MR. DULSKI) and H.R. 11750 (MR. UDALL, et al.)

H.R. 11751 (MR. CUNNINGHAM, et al.)

And Similar Bills

SEPTEMBER 1969

**Prepared for the Use of the Committee on Post Office and Civil Service
U.S. House of Representatives**

FINDINGS OF THE CONGRESS—GENERAL POSTAL POLICY

H.R. 11750

H.R. 4

Congressional Findings and Policy

Sec. 102,¹ p. 2..... Sets forth congressional findings that change is needed in the postal establishment, that a Government-owned corporation is the most effective organization for the postal system.
States that it is the purpose of this legislation to provide a means for:
Dependable postal service, at fair prices, fully responsive to the public needs;
A soundly financed and self-supporting postal system; and
Improved working conditions and improved career opportunities for postal service employees.

Congressional Findings

Sec. 101, p. 1..... Sets forth findings of the Congress with respect to the present condition of the postal service, the prospect for its efficient and economical operation, the causes of its difficulties, the basic principles upon which remedial measures can be effected, and that the needed postal reforms can best be accomplished without changing the traditional character of the postal service as a direct duty of the Government effectuated by an executive department.
States that it is the purpose of this legislation to provide a means for:
Modernization of the postal establishment;
Rapid, efficient, and economical postal service;
Postal employee-management relations; and
Postal reform.

COMMENTS:

2 The policy conclusions set forth above present the key policy issue to be determined by the committee—whether the U.S. postal service shall be operated by a regular Government department, with major reforms, or by a public corporation.

Postal Policy and findings of the Congress currently are set forth in 39 U.S.C. 2301-2302. H.R. 11750 would supersede these provisions. H.R. 4 would not.

The Magazine Publishers Association (Stephen Kelly) page 776, recommends that Congress should reaffirm the principles set forth in the Postal Policy Act (39 U.S.C. 2302) as guidelines for the United States Postal Service, particularly as to the public service aspect.

¹ All section references for H.R. 11750 are to the proposed revised title 39, United States Code, contained in sec. 2 of the bill.

STRUCTURE—POWERS—ORGANIZATION

H.R. 11750

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United States Postal Service

Post Office Department

Sec. 202, p. 5----- The Post Office Department is discontinued as an executive department, and the "United States Postal Service" is established as a Government corporation to operate the United States postal service and to commence operations within 1 year after date of enactment of legislation.

----- The Post Office Department would continue as an executive department. Major change in structure, organization, and powers of Postmaster General, are made in title IV, to establish a Postal Modernization Authority; title V, to establish a Commission On Postal Finance; and title VI, to establish a Post Office Department Operating Fund.

Board of Directors

Postmaster General and Staff

Sec. 203, p. 5----- The Postal Service is to be controlled by a 9-man board of directors: 7 appointed by the President (with Senate confirmation) with rotating 7-year terms; the eighth appointed as Chief Executive Officer by the 7 Presidentially appointed directors; and the ninth—the Chief Operating Officer—appointed by the 8. The Presidentially-appointed directors are to serve part time; the eighth and ninth directors serve full time and their compensation and tenure are fixed by the 7. No officer or employee of the Postal Service may be paid in excess of the compensation for level I of the Executive Schedule, currently, \$60,000.

----- The Post Office Department is continued under the direction of the Postmaster General, a member of the President's cabinet. His chief officers will continue to be a Deputy Postmaster General, six Assistant Postmasters General, a General Counsel, and a Chief Postal Inspector (39 U.S.C. 302 to 308, incl.)

Sec. 204, p. 8----- The Board of Directors may delegate any of its powers and functions to officers and employees of the Postal Service.

----- Continues authority of the Postmaster General to delegate powers and functions to subordinate officers and employees (39 U.S.C. 309).

STRUCTURE—POWERS—ORGANIZATION—Continued

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General Powers

General Powers

<p>Sec. 205, p. 9-----</p>	<p>This section contains the powers usually granted to a Government corporation, including power--</p> <ul style="list-style-type: none"> to sue and be sued; to adopt bylaws and regulations; to enter into and perform contracts; to maintain its own system of accounts; to acquire and dispose of property; to settle claims; to exercise the right of eminent domain; <p>which may be necessary, incidental, or appropriate to carry out its functions.</p>	<p>Sec. 2126, p. 30-</p>	<p>Continues general powers and duties of Postmaster General as provided in sections 302 and 501 of title 39, U.S. Code. Provisions are similar for the Postal Modernization Authority.</p>
<p>Sec. 206, p. 10----</p>	<p>Provides for a Judicial Officer-----</p>	<p>-----</p>	<p>Continues similar provision of present law (39 U.S.C. 308a).</p>
<p>Sec. 207, p. 11----</p>	<p>Provides for interchange of services, property, and goods with other Government agencies on mutual agreement.</p>	<p>-----</p>	<p>No special similar provision. General statutes apply as applicable to Government departments.</p>
<p>Sec. 208, p. 11----</p>	<p>Provides original venue in U.S. district courts for law suits; makes appropriate provisions of title 28, U.S. Code, applicable.</p>	<p>-----</p>	<p>Do.</p>

STRUCTURE—POWERS—ORGANIZATION—Continued

H.R. 11750

H.R. 4

Application of Existing Laws

Sec. 209, p. 12.... Except as specifically provided by this law, the Postal Service is exempted from all laws relating to Federal contracts, property, works, officers, employees, or funds and 5 U.S.C. chapter 5, relating to administrative procedures, and chapter 7, relating to judicial review of agency actions.

The following provisions specifically are applicable:

5 U.S. Code:

Sec. 3333, employees' affidavit on loyalty and striking.

Ch. 71:

Sec. 7101, right of postal employees to organize and present grievance to Congress.

Sec. 7102, right of employee to petition Congress.

Secs. 7151-7154, antidiscrimination because of race, color, religion, sex, national origin, marital status, or physical handicap.

Ch. 73:

Sec. 7311, loyalty and strikes.

Sec. 7312, appointment in nonsecurity position after removal from security position.

Secs. 7321-7327, political activities (Hatch Act).

18 U.S.C.: Provisions relating to crimes in the Postal Service or mails and to Government employees.

31 U.S.C.: Ch. 14, Government Corporation Control Act, except as expressly provided. (See sec. 1003(e), exempting Postal Service Fund from annual appropriations required by 31 U.S.C. 849, and sec. 1008, modifying the audit requirements of 31 U.S.C. 850-851).

No comparable general provision. But see title IV, relating to property and facilities; title V, relating to a Commission on Postal Finance; title VI, relating to a Post Office Department Operating Fund; and title VII, relating to Employee-Management Labor Relations.

All of the provisions of law which are specifically made applicable to the corporation by sec. 209 of H.R. 11750 will remain in effect under H.R. 4, since H.R. 4 contains nothing having any effect on the following provisions of law:

5 U.S. Code:

Sec. 3333, employees' affidavit on loyalty and striking.

Ch. 71:

Sec. 7101, right of postal employees to organize and present grievance to Congress.

Sec. 7102, right of employee to petition Congress.

Secs. 7151-7154, antidiscrimination because of race, color, religion, sex, national origin, marital status, or physical handicap.

Ch. 73:

Sec. 7311, loyalty and strikes.

Sec. 7312, appointment in nonsecurity position after removal from security position.

Secs. 7321-7327, political activities (Hatch Act).

18 U.S.C.: Provisions relating to crimes in the Postal Service or mails and to Government employees.

31 U.S.C.: Ch. 14, Government Corporation Control Act, except as expressly provided in section 2130, will apply to the Postal Modernization Authority.

STRUCTURE—POWERS—ORGANIZATION—Continued

H.R. 11750

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Application of Existing Laws—Continued

The following provisions specifically are applicable—
Continued

40 U.S.C.:

Secs. 258a-258e, condemnation proceedings.
Secs. 270a-270e, Miller Act, performance
and payment bonds.
Secs. 276a-276a-7, Davis-Bacon Act, rates
of wages for employees of contractors.
Sec. 276c, statement as to wage payments of
certain contractors.

Ch. 5:

Secs. 327-332 Contract Work Hours
Standards Act, 8-hour day and over-
time.

41 U.S.C.:

Secs. 35-45, Walsh-Healey Act, wages on
supply contracts.

Ch. 6:

Secs. 351-357 Service Contract Act of
1965.

42 U.S.C.:

2000d, 2000d-1-2000d-4, Title VI of the
Civil Rights Act of 1964.

Sec. 210, p. 14..... Requires corporation to report annually to the Presi-
dent and the Congress "concerning its opera-
tions."

Reserves to Congress the right to alter, amend, or
repeal all or any part of the corporation's charter.

----- The same provisions will continue to be applicable.

----- Postmaster General's Annual Report, and all other
reports required by title 39, U.S. Code, will be
continued.

----- Congress retains the right to alter, amend, or repeal
any or all parts of the charter of the Postal Moderni-
zation Authority.

COMMENTS:

The corporate entity established by chapter 2 of H.R. 11750 generally follows the pattern of the Tennessee Valley Authority charter. Issues and questions on H.R. 11750 were raised in the hearings as to (1) lack of mandate for responsiveness of the corporation to the President, the Congress, and the public need, (2) the possibility that rates would have to be increased or service reduced, or both, to achieve the corporation's goal of being self-supporting after 5 years; (3) the change-over to a corporation disrupting the postal service; (4) possibility that all Board members could be from one political party; and (5) inability to obtain superior management—lacking Cabinet status—within the salary limits provided.

Issues and questions on H.R. 4 were raised in the hearings to the effect that (1) continuity of professional top management, with tenure based on performance, cannot be assured as long as the Post Office remains a Cabinet department; (2) the bill perpetuates the existing diffusion and fragmentation of management authority, to the detriment of efficient and economical postal service; (3) the bill falls short of mandating a divorce of the postal system from partisan political considerations; (4) the bill insures a relatively static rate structure that cannot respond promptly to changing economic and market conditions; and (5) management's ability to keep costs under control would be diluted.

STRUCTURE—POWERS—ORGANIZATION—Continued

Amendments to chapter 2, H.R. 11750, proposed or suggested:

- (1) Limitation on number of members of Board of Directors from one political party.
- (2) Corporation's power to "determine and keep its own system of accounts" should be revised to require that the "system of accounts shall be consistent with generally accepted accounting principles and standards." (GAO.)
- (3) Application of Public Law 90-15 (advance submission of long-term leases to certain congressional committees) to leasing powers of corporation (GAO).
- (4) Elimination of salary ceiling, with rates left to discretion of Board.
- (5) Specific functions of the Chairman of the Board should be set forth in the law.
- (6) Recommends specific provisions be included to assure application of the Randolph-Sheppard Act (20 U.S.C. 107) relating to vending concessions for licensed blind operators on Federal property.

Amendments to H.R. 4 proposed or suggested:

- (1) Postmaster General should be removed from Cabinet and have 12-year term. Deputy Postmaster General should be career officer with 6-year term. Six Assistant Postmasters General should have staggered 6-year terms, with not more than three from one political party (H.R. 1133, Mr. Gross).
- (2) Extension of "no political influence" postmaster appointment provisions to rural carrier and other appointments and promotions.

SERVICES—DUTIES—AUTHORITIES

H.R. 11750

H.R. 4

General Duties

General Duties

<p>Sec. 401, p. 14..... Imposes on the corporation those duties to provide postal service, and invests it with those necessarily related powers, which in general are explicitly or implicitly imposed on and vested in the Postmaster General by existing law.</p>	<p>Continues existing duties of Postmaster General to provide postal service for the United States and the necessarily related authorities of the Postmaster General. These duties and authorities are set forth both generally and specifically, with detailed requirements relating to various services and operational procedures, in chapter 5 (General Provisions), chapter 7 (Post Offices), and chapter 9 (Delivery Service) of title 39, U.S. Code.</p>
<p>Sec. 401(a), p. 14. Specifies the duty to provide adequate and efficient postal service at fair and reasonable rates and fees; to serve as nearly as practicable the entire population of the United States; and to establish facilities consistent with reasonable economies of postal operations. Preserves the general effect of present law.</p>	<p>Continues existing law.</p>
<p>Secs. 402(2) and 403(a), p. 15. Empowers the corporation to prescribe amount of postage "in accordance with this title" (chapter 12.—Rates and Rate Making) and to establish classifications of service subject to such chapter 12.</p>	<p>Rates, fees, and classifications would be fixed as provided in the proposed new chapter 33—"Commission on Postal Finance" of title 39, U.S. Code.</p>
<p>Sec. 403(b), p. 17. Retains present size and weight limits on parcels (39 U.S.C. 4552).</p>	<p>Retains present size and weight limits on parcels, subject to procedure for possible change provided by the proposed new chapter 33.</p>
<p>Sec. 404, p. 18..... Continues authority to provide postal service at Armed Forces installations (39 U.S.C. 705(d)).</p>	<p>Continues present law.</p>
<p>Sec. 405, p. 18..... Continues international postal arrangements authorities (39 U.S.C. 505-506).</p>	<p>Do.</p>

COMMENTS:

The duties and powers of the corporation under chapter 4 of H.R. 11750 do not include a number of the specific and detailed duties and authorities of the Postmaster General under chapters 5 and 7 of title 39, U.S. Code. Enumeration in such specific detail would not be necessary if H.R. 11750 were enacted, since such matters would be covered by the general corporate powers (chapter 2) and the broad description of its postal duties and powers (chapter 4).

Examples of matters not specified in chapter 4 of H.R. 11750 are present title 39 sections 502 (Bonds); 503 (Mail equipment shops); 504 (Research and development program); 507 (Fees for special services); 508 (Sale of maps, etc.); 509 (Rewards); 510 (Disposal of waste paper); 703 (Distributing offices; clerk hire); 704 (Reimbursement for equipment); 707 (Hours of service); 708 (Box rents to be prepaid); 709 (Arrival and departure of mail).

Enactment of H.R. 4 also would affect such sections 504 and 507 of title 39, U.S. Code. Under the proposed title IV, the Postal Modernization Authority would assume research and development jurisdiction. Under the proposed title V, the Commission on Postal Finance could effect changes in fees.

The National Association of Postmasters (Mr. Costin, p. 438) recommended restrictions on discontinuance of post offices unless the position of postmaster is vacant, or when the post office has postal receipts of more than \$800, 100 or more postal patrons, or any postal patron cannot be served.

The National Association of Special Delivery Messengers (Mr. Cullen, p. 641) recommended that scheduled special delivery service should be provided every 2 hours in business district and 3 hours in others areas (H.R. 11871).

See Post Office Department memo, p. 1233.

SERVICES—DUTIES—AUTHORITIES—Continued

H.R. 11750

H.R. 4

Mail Matter

Mail Matter

Sec. 601, p. 20..... Provisions of existing law are continued with minor changes..... Continues all present provisions of secs. 4001-4170 and sec. 4303.

New	Existing	
39 U.S.C.:	39 U.S.C.:	
601	4001	Nonmailable matter
602	4010	Master keys
603	4003	Fictitious address or name
604	4004	Identification of addressee
605	4005	Lotteries and false representation
606	4006	Unlawful matter
607	4007	Detention of mail
608	4009	Pandering advertisements
651-659	4151-4160	Official penalty mail
660-667	4161-4168	Franked mail
670	4171	Do.
668	4169	Armed Forces mail
669	4170	Do.
671	4303(d)(5)-(7)	Do.

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PERSONNEL AND LABOR-MANAGEMENT

H.R. 11750

H.R. 4

Appointments and Promotions

Appointments and Promotions

- Sec. 801(a), p. 46.. Establishes a merit system of employment, promotion and adverse action outside the civil service system and subject to collective bargaining agreements. The Postal Service must establish procedures to assure its employees of meaningful opportunities for promotion, for career development, and to be heard before adverse actions are taken against them. The adverse action provisions of the civil service laws (5 U.S.C. ch. 75) continue to apply, until new procedures are established by the Postal Service.
- Sec. 801(b), p. 46.. Authorizes the corporation to make long-term employment contracts, which the Board may terminate on payment of contract damages.
- Sec. 801(c), p. 46.. Prohibits political tests or qualifications in personnel actions; prescribes penalties for violation.

- Continues postal employees in the competitive civil service with all rights, benefits, privileges, and protections appertaining thereto. Merit promotion program continues to apply.
- No comparable general provision.
- Merit system of competitive examinations, appointments, and promotions, provided for by postal and civil service laws and regulations, will continue to apply to postal personnel.
 Title II authorizes the Postmaster General to appoint postmasters in the competitive service. It prohibits any written or oral recommendation for appointment of a postmaster by any Member of Congress, any elected official of a State or local government, or any official of a partisan political organization. It also prohibits any such recommendation by any other person or organization, with two necessary exceptions—
 The Postmaster General may consult appropriate postal management and administrative officials as to the qualifications and ability of a postal employee who is being considered for promotion to fill a vacant postmastership.
 Authorized government representatives may inquire as to an applicant's loyalty and suitability, and solicit from a former employer of an applicant a judgment as to the applicant's qualifications and ability.
 Any person who applies, or is being considered, for a position of postmaster will be disqualified if he knowingly requests any of the prohibited recommendations.
 If any prohibited recommendation is received by a Federal official, it must be rejected with a notice that it violates this title.
 The existing residence requirements for postmasters are continued.

PERSONNEL AND LABOR-MANAGEMENT—Continued

H.R. 11750

H.R. 4

Appointments and Promotions

Appointments and Promotions

Sec. 801(d), p. 47-- Makes the veterans' preference applicable to the Postal Service. Though Postal Service employees will not be within the classified civil service, effective personnel policies for carrying out the veterans' preference will be instituted, as in the Tennessee Valley Authority. Also applicable, in the same manner as to private employers, are the provisions governing reemployment rights of former military personnel. The Postal Service is directed to follow an enlightened employment policy designed to extend opportunity to the disadvantaged and the handicapped. Existing Government-wide policy to assure equal employment opportunity (5 U.S.C. 7151) applies to the Postal Service by specific cross reference in section 209 of the title.

----- Veterans preference and reemployment rights under existing law are continued.

Sec. 801(e), p. 47-- Permits dual employment and dual compensation.

----- No comparable general provision, but continues section 3313 of title 39, U.S. Code, relating to appointments in fourth class offices in Alaska.

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COMMENTS:

H.R. 1133 (Mr. Gross et. al.) gives career postal employees preference for postmaster appointments and removes political influence in connection with appointments of postmasters, rural carriers, and all other postal personnel.

The adverse action provisions of 5 U.S.C. Chapter 75, relate to removal from the competitive service (5 U.S.C. 7501), removal of preference eligibles (5 U.S.C. 7511-7512), removal of hearing examiners (5 U.S.C. 7521), and removal for security reasons (5 U.S.C. 7531-7533).

The G.A.O. suggested (p. 1141) several technical amendments to sec. 801 and 803 and reported (p. 1123) that it is questionable whether the requirements for competitive examinations and promotions from within could be applied to interim appointments of postmasters as proposed by H.R. 4.

National Rural Letter Carriers Assn. (Mr. Alfrey, p. 839) would require that any rural route vacancy, remaining unfilled after reassignment procedures of career employees at the post office have been completed, be made available to rural letter carrier substitutes of record who have served at least 3 years at that office (see H.R. 12489).

United Federation of Postal Clerks (p. 979) suggested use of provisions of H.R. 6959 (Mr. Dulski) relating to appointment of postmasters,

PERSONNEL AND LABOR-MANAGEMENT—Continued

H.R. 11750

H.R. 4

Employees of Post Office Department

Employees of Post Office Department

Sec. 803, p. 48..... Current employees, other than top Presidential appointees, become employees of the Postal Service but will be eligible to transfer to another civil service position for a period of 1 year.

Sec. 404, p. 40.. Employees of the Post Office Department, as the administrator of the Postal Modernization Authority determines necessary to carry out the functions of the Authority, shall be transferred to the Authority without loss of any benefits.

Accrued leave will be transferred.....
Compensation and all fringe benefits will continue until changed by the Postal Service in accordance with collective bargaining procedures.

Continues present annual and sick leave rights.
Continues present system of fixing pay and fringe benefits, subject to proposed new statutory "Employee-Labor Management Relations" policy contained in title VII. See "Comments."

Compensation for work injuries (5 U.S.C. 8101-8150), unemployment compensation (5 U.S.C. 8501-8508), life insurance (5 U.S.C. 8701-8716), and health insurance (5 U.S.C. 8901-8913) shall continue to apply until changed under the collective bargaining procedure and, if changed, may not be less favorable on the whole than provided by such provisions.

Continues present statutory provisions for compensation for work injuries, unemployment compensation, life insurance, and health benefits.

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Retirement

Retirement

Sec. 804, p. 50..... Employees will continue to be covered by civil service retirement.

Employees will continue to be covered by civil service retirement.

Pay Comparability Policy

Pay Comparability Policy

Sec. 805, p. 50..... Policy is that compensation and employee benefits shall be comparable to those in "non-Federal" sectors of economy.

Continues policy, first stated in the Federal Salary Reform Act of 1962, that "Federal salary rates shall be comparable with private enterprise salary rates for the same levels of work" (emphasis supplied).

Terms of Employment

Terms of Employment

Sec. 806, p. 50..... The Board of Directors shall fix compensation and employee benefits subject to collective bargaining and subject to maximum rate of compensation of Executive Level I (now \$60,000).

No comparable provisions, except as noted above. Federal salary statutes governing pay and terms of employment will continue to apply.

PERSONNEL AND LABOR-MANAGEMENT—Continued

COMMENTS:

Sections 801-806 of H.R. 11750 in effect replace all of "PART III—PERSONNEL" of title 39, U.S. Code, which now contains provisions (1) relating to employees generally and special classes thereof, (2) governing appointment, assignment, and transfer of employees, and (3) the classification and compensation of postal field service employees.

United Federation of Postal Clerks objected to comparability on basis of "non-Federal" sectors of economy (H.R. 11750, sec. 805) because it would permit inclusion, in surveys, of local government pay.

Frederick R. Kappel (p. 266) and National Association of Manufacturers (Mr. Gullander) (p. 706) recommend that the ceiling on compensation of Executive Schedule Level I (section 806) should be eliminated and left to the Board of Directors.

Questions were raised in the hearings with respect to the need to extend the "no politics" provisions of title II of H.R. 4 to rural carriers and to all other appointments and promotions.

The sharply divergent policies of the 2 bills with respect to "bread and butter" items customarily involved in major collective bargaining between labor and management represent one of the vital issues to be decided by the Committee. H.R. 11750 would open such matters to collective bargaining. H.R. 4 would leave them to the Congress.

Union representatives testified that, lacking the right to strike, they would have nothing at the bargaining table, under H.R. 11750, to equalize the power of management to control the levels of pay and other "bread and butter" items.

Witnesses supporting H.R. 11750 testified that management would have a strong incentive to reach agreement with labor on "bread and butter" items since the alternative would be an independent determination of these issues by either the Postal Disputes Panel or an ad hoc arbitration board.

PERSONNEL AND LABOR MANAGEMENT—Continued

H.R. 11750

H.R. 4

Labor Management Relations

Sec. 807, p. 52----- Labor-Management matters are subject to the Labor-Management Relations Act of 1947 (29 U.S.C. 151-168) and the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401-531) unless the provisions of such acts are inconsistent with provisions of this legislation. The National Labor Relations Board would have jurisdiction over unfair labor practice charges.

Employee-Labor Management Relations

----- Title IV establishes a statutory Postal Employee-Labor Management Relations Program to replace Executive Order 10988 as that order applies to postal employees.

Title VII—

- (1) lays down the fundamental principle that free and friendly consultation between employee unions and management will contribute to better postal service; that employees are entitled to be heard by management on matters affecting them; and that strong and democratically administered employee organizations are to be encouraged in the postal establishment (Sec. 3701);
- (2) spells out a clear policy for the granting of exclusive recognition to postal employee organizations, based on identification of nationwide crafts for employees and separate consideration of supervisors' organizations, together with codes of proper conduct for both management and employees (sec. 3703);
- (3) permits dues check off, with employee assignment; and
- (4) establishes standards of conduct for labor organizations (sec. 3706) and a code of fair labor practices (sec. 3707).

COMMENTS:

As to sec. 807 of H.R. 11750, the only inconsistency is the prohibition in 5 U.S.C. 7311 against the right of employees to strike. (See memo on page 688 of hearings). This prohibition is continued by section 209(1).

Congressman Blackburn (p. 406), National Right to Work Committee (Reed Larson, p. 416), and the U.S. Chamber of Commerce (Mr. Clarke, p. 934), recommend that employees have the right "to refrain from any or all union activities."

National Assn. of Postal Supervisors (Mr. O'Dwyer, p. 533-538), commented on recognition for supervisors, binding arbitration, and definition of "emergency."

The National Postal Union (Mr. Silvergleid, p. 1084), recommends use of H.R. 7916 (Mr. Dulski) so as to permit recognition of industrial unions.

The National Assn. of Manufacturers (Mr. Gullander, p. 706), is opposed to compulsory arbitration and recommends that other means be worked out, but had no recommendation as to such other means.

Government Employees' Council, AFL-CIO (Mr. McCart, p. 868), raised several questions relating to coverage of union negotiation rights, role of arbitration, and carry over of pay and fringe benefits.

AFL-CIO (Mr. Meany, p. 1052), employees should retain civil service status and have binding arbitration or be granted the right to strike.

United Federation of Postal Clerks (Mr. Filbey, Mr. Nilan, p. 965), inserted resolution containing 3 recommendations: (1) right to strike, (2) binding arbitration, and (3) improvement of postal service, recommend H.R. 4 use language of H.R. 4803 (Mr. Daniels) for employee-labor provisions.

Resolution of Labor-Management Disputes

Labor-Management Disputes

Sec. 808, p. 52----- This section—

- (a). Provides that disputes arising under collective-bargaining agreements shall be resolved by the procedures set out in the agreements or subsequently agreed to by the parties.
- (b). States the congressional intention that the parties adopt procedures of their own for resolving disputes arising in negotiation of collective-bargaining agreements; such procedures will be enforced.
- (c). Provides for review of disputes by the Postal Disputes Panel if procedures are not adopted under (b), or if they do not resolve a dispute. The Panel may act or refrain from acting pending further negotiation by the parties. It has at its disposal the "arsenal of weapons" advocated by authorities on public employee unionism: mediation, factfinding, recommendations, and arbitration. It may refuse to take jurisdiction over an issue.
- (d). Provides that refusal to take jurisdiction over an issue will preserve the practice in effect prior to negotiation and that if the first three of these approaches do not bring agreement, the Panel may refer issues to arbitration.
- (e). Provides that on those issues referred to arbitration, the Panel shall frame the issues and determine whether to arbitrate by separate issues, combination of issues, or total package.
- (f). Provides that the Panel refer arbitration to a three-man arbitration board, chosen one by the Postal Service, one by the bargaining agent, and one by the two thus selected. If the two cannot agree, a third member is named by the Federal Mediation and Conciliation Director. Decisions of the arbitration board are conclusive and binding upon the parties.

----- Under Title VII—

- (1) Section 3708 enumerates rights and procedures for presenting disputes and provides for either party invoking services of the Federal Mediation and Conciliation Service, with further access to an independent Postal Labor-Management Relations Panel (created by Section 3709) if mediation is not successful. Section 3708 empowers the Labor-Management Relations Panel to investigate and make final and binding determinations of any disputes arising under Section 3708.
- (2) Section 3709 creates an independent Postal Labor-Management Relations Panel and specifies the makeup of the panel, provides an Executive Secretary, and stipulates their salary levels; Section 3710 sets forth the powers and duties of the panel.
- (3) Section 3711 sets forth procedures for settlement of grievances and the right to arbitration; and Section 3712 vests jurisdiction in U.S. District Courts for enforcement of the Panel's decisions. Section 3711 further guarantees the rights of both employees and management representatives to present their cases, to testify and be heard, and to question and cross-examine witnesses, without fear of intimidation or reprisal. It also grants any employee or recognized labor organization the right to present grievances and to submit unresolved grievances for binding arbitration to an arbitrator selected from a list of five names to be furnished by the Secretary of Labor.

PERSONNEL AND LABOR-MANAGEMENT—Continued

H.R. 11750

H.R. 4

Postal Disputes Panel

Labor-Management Relations Panel

Sec. 809, p. 55..... Creates a nine member permanent Postal Disputes Panel, provides for selection of panel members and their terms, grants the panel power to establish rules, fixes members' salary level, and stipulates that three panel members shall be designated to act on each dispute—the selection to be made so as to preclude advance knowledge by either party to the dispute.

Secs. 3709–3710, A Labor-Management Relations Panel is created, pp. 67–68. composed of 3 members appointed by the President, with the consent of the Senate, for staggered 5-year terms.

COMMENT:

Both H.R. 11750, in sections 807 to 809, inclusive, and H.R. 4, in title VII, seek to establish new and effective remedies to the severe and worsening problem of postal employee-management relations.

FINANCE AND PROPERTY

H.R. 11750

H.R. 4

Capital of the Postal Service

Sec. 1002, p. 59... The initial capital of the Postal Service shall be the equity of the United States in the present Post Office Department as reflected in the President's budget; the Postal Service and the General Services Administration will work out exactly which properties shall be transferred to the Postal Service and which will remain in the United States, subject to approval by the Bureau of the Budget. Assets shall be valued on the basis of original costs, less depreciation.

Property Financing

----- Contains no general provision to "capitalize" the assets of the Post Office Department or the "equity of the United States" in the Department. However, title IV creates a Postal Modernization Authority, a body corporate, under the direction and control of the Postmaster General, to act, in effect, as a holding company for all postal buildings, facilities, space, equipment and machinery. All such property, as well as the present functions of the Bureau of Facilities and the Bureau of Research and Engineering, are transferred to the Authority. The Authority will acquire, hold, develop, and perfect buildings, facilities, equipment, and machinery suited to the needs of a modern and efficient postal service, and will lease the same to the Postmaster General at charges that will return the Authority's total costs.

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COMMENT:

The General Accounting Office commented (page 1132) that the method of valuation contained in H.R. 11750 is the usually accepted method.

Postal Service Fund

Post Office Department Operating Fund

Sec. 1003, p. 61.--- A Postal Service Revolving Fund is established, to be credited with all revenues and receipts of the Postal Service, including revenues from sale of bonds. The Fund is available without fiscal year limitation for the payment of all expenses of the Postal Service without regard to apportionment requirements of 31 U.S.C. 665 or the requirements of the Government Corporation Control Act, 31 U.S.C. 849, relating to legislation approving annually expenditures of corporate funds for operating and administrative expenses.

----- Title VI establishes a Post Office Department Operating Fund, to be credited with revenues and receipts of the Department listed at pages 51-52 of the bill and to be available for payment of expenses of the Department without fiscal year limitation and without regard to apportionment requirements of 31 U.S. Code 665.
The list of "revenues and receipts" to be credited to the Fund does not include receipts from sale of bonds or property by the Postal Modernization Authority created by title IV.

COMMENTS:

The above provisions of both bills are intended to meet a primary need—to make a true and effective revolving fund available to the responsible postal official or officials, through which postal revenues may be received and utilized to effectively operate the postal service free of present unrealistic and obstructive budgetary restrictions and appropriation limitations.

Some concern has been expressed with respect to use of proceeds of bond and property sales, under H.R. 11750, for operations of the Postal Service and the possible desirability of limiting the use of such proceeds to payments for buildings, equipment, and related research and engineering.

G.A.O. recommends (p. 1120) that several parts of this section be deleted as they duplicate provisions of the Government Corporation Control Act (31 U.S.C. 867 and 870).

G.A.O. commented (p. 1119) that "the Corporation which would be established by the bill would be subject to less congressional control than most other wholly owned Government corporations subject to the Government Corporation Control Act. For example, the Postal Service would be permitted to borrow funds from the public which, together with funds derived from whatever source, could be used to pay its expenses without regard to section 104 of the Government Corporation Control Act, 31 U.S.C. 849. Thus, the House Committee on Appropriations, under the rules of the House, in its review of the annual budget of the Corporation could not limit the proposed use of the corporate funds even though it might disagree with the budget proposals."

See Post Office Department comments, pp. 1235-1238.

FINANCE AND PROPERTY—Continued

H.R. 11750

H.R. 4

Transitional Appropriations

Appropriations

Sec. 1004, p. 63 -- Authorizes appropriations to the Fund to insure a sound transition for the Postal Service and a rate policy consistent with the rate policy of sec. 1201 which contemplates a 5-year transitional period and continuing appropriations pursuant to sec. 1202 to cover any reduced rate mail Congress may prescribe.

Sec. 2224, p. 53.. Authorizes appropriations to cover cost of public services plus any deficiencies in the Fund.

COMMENTS:

G.A.O. comments (p. 1121) that H.R. 11750 should be clarified as to whether it is intended that appropriations be made if a break-even basis is not achieved in 5 years.
Section 1201(d) must be considered in connection with this problem.

FINANCE AND PROPERTY—Continued

H.R. 11750

H.R. 4

Obligations

Secs. 1005, 1006,
pp. 63, 66. The Postal Service is authorized to borrow up to \$10 billion, but not more than \$1.5 billion in any one year for capital expenditures. The Postal Service may pledge its assets, revenues and receipts or create reserve, sinking and other funds to pay off the bonds. The obligations are not guaranteed by the United States. They are exempt from State and local taxes. The terms and conditions are subject to consultation with the Secretary of the Treasury who may be required to purchase not in excess of \$2 billion and may elect to purchase any additional amount. The issuance of the obligations is subject to the Government Corporation Control Act (31 U.S.C. 847-849).

Treasury Purchases

Sec. 1007, p. 67... Public debt transactions proceeds may be used to purchase Postal Service obligations, but such transactions do not result in a United States guarantee for the Postal Service obligations.

Bonds

Secs. 2129, 2131,
p. 34. The Authority is authorized to issue bonds in amounts up to \$20 billion (see sec. 2126 (8)(A)) and pledge the full faith and credit of the Authority. The obligations are not guaranteed by the United States and are exempt from State and local taxes. The Secretary of the Treasury may be required to purchase up to \$500 million. The transactions are subject to the Government Corporation Control Act.

Treasury Purchases

Sec. 2129..... Grants similar authority with respect to purchase of bonds of Postal Modernization Authority, subject to dollar limitation specified above.

COMMENTS:

G.A.O. comments (p. 1120) that it may be advisable to authorize the Postal Service to make all of its borrowings from the Treasury. Also G.A.O. (p. 1131) interprets the provisions subjecting the issuance of obligations to the Government Corporation Control Act as authorizing Congress, through the appropriation process, to limit the issuance of obligations in any particular fiscal year. Compare with section 1003(e) which exempts the Postal Service Fund from such control.

The Secretary of the Treasury (p. 1182) indicated that it might be advisable to clarify the intent of H.R. 11750 by specifying that the holders of Postal Service obligations have no right to expect payment from appropriated funds. It is also explained what is included in "public debt" transactions.

Provisions of H.R. 11750 are similar to provisions for other Government Corporations, see 12 U.S.C. 1824, FDIC, and 33 U.S.C. 985, St. Lawrence Seaway.

The National Assn. of Manufacturers (Mr. Gullander, p. 706) recommends removal of capital expenditures limitation in H.R. 11750, leaving it to the Board.

Former Postmaster General J. Edward Day submitted memo on financing provisions of H.R. 11750 (p. 1034) which was analyzed by the POD (p. 1270).

FINANCE AND PROPERTY—Continued

H.R. 11750

H.R. 4

Audit

Audit

Sec. 1008, p. 67--- Provides for an audit by the Comptroller General, setting forth in specific detail the requirements for the audit and exempting the Postal Service from the audit provisions of 31 U.S.C. 850 and 851 which apply to Government Corporations generally.

Sec. 403, p. 40--- The Postal Modernization Authority created by title IV is subject to the usual audit requirements of the Government Corporation Control Act (31 U.S.C. 846).

COMMENT:

G.A.O. (p. 1120) recommends that portions of section 1008 of H.R. 11750 be eliminated, as they duplicate and modify provisions under the Government Corporation Control Act. G.A.O. recommends, for both bills, that substitute provisions leaving it up to G.A.O. to determine the extent and time of the audits and requiring the Postal Service to maintain an internal audit system. See Post Office Department memo, p. 1237.

FINANCE—RATES AND RATEMAKING

H.R. 11750

H.R. 4

Rate Policy

Sec. 1201, p. 70... States the broad policy that postal rates should be reasonable, equitable, and sufficient to permit the Corporation to develop postal services in accordance with public needs. Within 5 years Congress intends that revenues, as a whole, plus the appropriations for free and reduced rate mail, will equal costs, as a whole. The term "costs" is taken in its broad economic sense and includes operating expenses, depreciation, debt service, and a reasonable provision for contingencies.

The section outlines the policy that except for those afforded special rates by the Congress, each class is to bear as a minimum the costs demonstrably related to providing service to that class. However, the Board is enjoined to take into account the financial impact of rate changes on the users of the mail and may achieve the policy goals of this section over a duration of time it considers appropriate in view of such impact. To the extent that the Board recovers less than costs in view of such impact, the President is authorized to seek appropriations under section 1004 to make up the difference.

Free and Reduced Rate Mail

Sec. 1202, p. 72... Congress will legislate as to free and reduced rate mail.

Existing free and reduced rate legislation is continued until changed by Congress (sec. 1202(e)). Annual appropriations are authorized to cover "revenue foregone" on free and reduced rate mail.

In absence of sufficient appropriations, Postal Service shall adjust rates on free and reduced rate mail to recover difference between appropriation and revenue foregone.

Rate Policy

Title V..... The Commission on Postal Finance is to review postal policy (sec. 2606(3) and recommend changes to the President for transmission to the Congress which become effective automatically unless vetoed (sec. 2608).

The policy under sec. 2606(A), p. 46, line 21—

To provide a comprehensive system of rates, charges, and fees for services that are consistent with the economic, cultural and social interests of the Nation and the general public welfare, and

To recover total costs incurred in the performance of postal services excluding public service costs. Postal rates and the Postal Policy Act would remain in effect unless or until changes therein are effected through the Commission on Postal Finance procedures contained in secs. 2606-2611.

FINANCE—RATES AND RATEMAKING—Continued

H.R. 11750

H.R. 4

Parcel Post Rates

Parcel Post Rates

Sec. 1203, p. 74--- The Postal Service, in order to not compete unfairly with private enterprise, shall, in setting rates involving parcels, recover the carrying charge on all capital employed in providing such service plus an imputed charge for Federal, State, and local taxes which would be payable if service were by privately-owned organization.

Title V----- Continues in full force and effect parcel post rate-making policy developed by the Congress and enacted into law as Public Law 89-593 (39 U.S.C. 4558), unless or until changed in the manner prescribed in sections 2606 to 2611, inclusive.

COMMENTS:

United Parcel Service (Mr. Foreman, p. 553) with respect to either bill—

- (1) Provisions should require parcel post "not to compete unfairly with such privately-owned carriers by direct or indirect subsidy."
- (2) Parcel post should recover its full costs, including demonstrably related costs, imputed charge for taxes, part of institutional costs.
- (3) Annual rate adjustments should be made or a certification that rates are in compliance with requirements.

American Retail Federation (Mr. Keeney, p. 724) with respect to either bill—

Sec. 1203 should be eliminated as there is no possible way to comply with it.

Railway Express Agency (Mr. Moseley, p. 951)—

It should be required that parcel post service be on a completely fair competitive basis with private enterprise and in order to do this:

- (1) Recover full costs allocable to parcel post, including capital carrying charge and tax impute.
- (2) Flexibility to use private contract carriers.
- (3) Flexibility to contract out those aspects of parcel post which conflict with postal service.

(See Post Office Department memo—p. 1233)

Parcel Post Association (Mr. Bunn, p. 1278) sec. 1203 should be eliminated as it will result in the elimination of an essential nationwide public service which private enterprise does not now, and cannot in the future, provide.

See memo from the Library of Congress on legislative precedents concerning tax impute charge (p. 1284).

FINANCE—RATES AND RATEMAKING—Continued

H.R. 11750

H.R. 4

Rate Commissioners

Sec. 1251, p. 75... There is established, within the Postal Service, a panel of 3 rate commissioners appointed in the competitive service by the presidentially appointed Members of the Board for staggered 6-year terms.

Changes in Rates and Classifications

Sec. 1252, p. 78... The Postal Service, whenever it deems necessary, shall initiate and give notice, in the Federal Register and to the commissioners, of proposed changes in rates, charges, fees, or classification. Interested parties have 30 days to file objection with commissioners. If no objection, the commissioners shall forward proposed changes to Board.

Rate Proceedings

Sec. 1253, p. 79... Provides for a hearing by the commissioners pursuant to 5 U.S.C. 556 and 557 (Administrative Procedures Act) in all rate change cases in which a timely request for hearing has been made. Interim rates may be put into effect, upon 30-day notice, if decision is not made within 90 days and will continue until 30 days after decision is made plus time proposal may be before Congress for veto as well as the time during which judicial proceedings initiated under sec. 1257 are pending.

Final Decision on Rates

Sec. 1254, p. 80... Presidentially appointed Members of Board shall consider decision of commissioners, reject, modify or adopt such of the proposed changes as they may determine and transmit their recommendations to the Congress to become effective unless the two Houses adopt a concurrent resolution disapproving the change within 60 days.

Commission on Postal Finance

Secs. 2601-2602, p. 42.

There is established a Commission on Postal Finance, to be appointed every 4 years, and composed of 11 members for terms of 18 months, 5 by President, one of whom shall be designated as chairman, 3 by Speaker of the House, 3 by President Pro Tempore of the Senate.

Terms of Commission

Section 2602 provides that the first term of 18 months for the Commission will cover the period July 1, 1969, to Dec. 31, 1970. The second such term would begin on the first day of the 31st month following that date—that is, July 1, 1973—and end Dec. 31, 1974. And so on in the future. Commission members who are not Federal employees are to be paid \$200 per day when actually engaged in Commission business.

Administrative and Personnel Matters

Section 2602 authorizes the Commission to hire needed temporary personnel, during each 18-month term, without regard to civil service laws and rules, including an Executive Director (to be paid the salary rate for level IV of the Executive Schedule (5 U.S.C. 5315), who may hire other such personnel at salary rates within the range of the General Schedule (5 U.S.C. 5332). The Commission also is authorized to obtain the loan of Federal employees on a reimbursable basis. Sections 2604 and 2605 provide for use of mails by, and administrative support services for, the Commission, respectively.

Function of Commission

Section 2606 sets forth the function of the Commission and the purpose thereof. The function is to conduct, in each 18-month term, a review of 4 major areas of inquiry relating to rates and ratemaking, and 1 area of inquiry relating to activities of the Postal Modernization Authority.

Purpose of Review

The review is to provide, among other matters—(1) a complete postal rate system suitable to “the economic, cultural, and social interests of the Nation” which will recover total postal costs less public service allowance, (2) for the charging to users of fair shares of costs, consistent with good accounting and management practices, and (3) for the fixing of public service allowance consistent with the duty of the Government to furnish postal service, the value of the service to mailers and addressees, and the financial condition of the postal operation.

Service Changes

Sec. 1255, p. 82 -- The Board shall give public notice of proposed nationwide changes in service not involving rate changes. Commissioners shall conduct public hearings under 5 U.S.C. 551-559 (Administrative Procedure Act) and advise the Board of its decision which shall be final unless modified by the Board.

A proposed change in service less than nationwide, but having a potentially substantial and adverse effect on mail users, shall be subject to the same procedures or to similar procedures as may be determined necessary by the Postal Service which must include publication of notice.

Emergency changes may be made pending regular procedures.

Rate and Service Complaints

Sec. 1256, p. 85 -- Any interested party may file a rate or service complaint with the commissioners.

The commissioners may hold hearings and, after hearing, advise the Board if they find the complaint justified.

If rate matter is involved, Postal Service must then institute rate change proceedings under section 1252.

If service matter is involved, Board is to take appropriate action.

FINANCE—RATES AND RATEMAKING—Continued

H.R. 11750

H.R. 4

Judicial Review

Judicial Review

Sec. 1257, p. 86.... Judicial review may be initiated pursuant to ch. 7 of title 5 (Administrative Procedure Act), and ch. 158 and sec. 2112 of title 28, (the Judicial Review Acts) of decisions of the Postal Service—
On rates under section 1254,
On nationwide service changes under section 1255, and
On the commissioners' decisions on rates or service complaints instituted by interested parties under section 1256.
Such review is limited to holding unlawful and setting aside a decision which is shown to be—
Contrary to constitutional right, power, privilege, or immunity;
In excess of statutory jurisdiction, authority, or limitations; or
Without observance of prescribed procedure.
Petitions must be filed within 15 days of decision.
Board must delay final action on decision pending disposition of review.
Interim rate changes under sec. 1253(d) and emergency service changes under sec. 1255(e) are not subject to judicial review.

No similar provisions. Congressional approval or disapproval of rates (sec. 2609) precludes any need for judicial review thereof.
Aside from the matter of rates, present law, including the Administrative Procedure Act among others, continues existing rights of access to judicial review wherever appropriate with respect to administrative orders, regulations, decisions, and related matters to which complaint or objection has been made.

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COMMENTS:

Former Postmaster General J. Edward Day submitted a memo on rate making provisions (p. 1029) which was analyzed by the Post Office Department (p. 1271).

Magazine Publishers Association, Inc. (Mr. Kelly, p. 776):

- (1) Public Service guidelines should be incorporated.
- (2) 2d class mail should pay no more than incremental cost.
- (3) Rate making authority and wage fixing authority should rest in same organization.
- (4) Congressional veto period should be longer than 60 days and require action by only one body of Congress.

Direct Mail Advertising Association, Inc. (Mr. Kislik, p. 899, Hon. Frank Carlson, p. 906)—

- (1) "Demonstrably related costs" should be clarified.
- (2) Sec. 1252, relating to rate making, should have procedural controls and judicial review similar to Federal regulatory agencies, i.e., public record and more judicial review.
- (3) Permit Congressional veto within 120 days.
- (4) Amend sec. 1255, relating to service changes, to implement what is meant by "substantially affects."
- (5) Enlarge rate commission to 5 and specify the qualifications for a commissioner.
- (6) Institutional public service costs and percentage of operating costs should be covered by appropriations.
- (7) Congress should continue determinations of reduced rate mail.

See Post Office Department comments on some of these comments, pp. 1228-1238.

PRIVATE CARRIAGE OF LETTERS

H.R. 11750

H.R. 4

Private Carriage of Letters

Secs. 1401-1406, pp. 88-91. Existing law is continued, with some minor modifications, with respect to:

New section 39 U.S.C.	Current section 39 U.S.C.	
1401	901	Private express statutes
1402	902	Foreign letters
1403	903	Searches of mailable matter apparently being transported in violation of law.
1404	904	Seizures of letters being carried contrary to law
1405	905	Searching of vessels
1406	906	Disposition of seized mail

Review of Private Express Laws

Sec. 7, p. 119.----- Statement of Congressional finding that private express laws (39 U.S.C. new ch. 14, and 18 U.S.C. 1694-1696) are in public interest but need study and review. Board is directed to submit to the President and the Congress within 2 years a report and recommendation for modernization of laws.

Private Carriage of Letters

Existing law is continued.

Review of Private Express Laws

Committee may conduct a review at any time, if it deems such a review appropriate, without a special statutory provision.

TRANSPORTATION

H.R. 11750

H.R. 4

General Provisions

Secs. 1601-1609,
pp. 92-97.

These provisions continue provisions of existing law with conforming changes. In general, they authorize the Postal Service—

To provide for the transportation of mail,

To contract "under such terms and conditions it deems appropriate" for domestic and international transportation of mail,

To obtain mail transportation service from "common carriers" by rail, motor vehicles, and air carriers, by contract or otherwise, only as provided under provisions of this chapter.

General Provisions

Title III contains provisions authorizing the Postmaster General to provide for the transportation of mail, to contract for transportation of mail, and to obtain mail transportation by rail, air, motor, and other carriers, by contract or otherwise, in accordance with general and special statutory provisions applicable to transportation of mail.

New section 39 U.S.C.	Current section 39 U.S.C.	
1601	6101(a)	Provisions for carrying the mail
1602	6103	Transportation to adjoining countries
1603	6105	Establishment of Post Roads
1604	6106	Discontinuance of Post Roads
1605	6402	Contracts
1606	6421	Bid combinations
1607	6432	Liens
1608	6433	Free transportation of Postal officials
1609	6434	Breach of contract

Railroads, Motor Carriers, and Freight Forwarders

Secs. 1625-1638,
p. 97-106.

These sections cover the transportation of mail by railroads, regulated motor carriers, regulated freight forwarders, and express companies. The same statutory obligation to transport mail and provide related services, which now applies only to railroads, is placed upon the other carriers, all at fair and reasonable rates fixed by the Interstate Commerce Commission.

In addition, the Postal Service may enter into contracts with carriers to carry the mails at rates voluntarily agreed upon, but, in such cases, there is no statutory obligation on the carrier.

The new sections as modified to cover motor carriers, freight forwarders and express company and existing sections applying only to railroads are as follows:

New section 39 U.S.C.	Current section 39 U.S.C.	
1625	6201	Definitions
1626	6202	Applicability
1627	6203	Authorization of service
1628	6204	Facilities provided by carrier
1629	6205	Changes in service
1630	6206	Evidence of service
1631	6207	Fines and deductions
1632	6208	ICC to fix rates
1633	6209	Procedure
1634	6210	Special rates
1635	6313	Intermodal transportation
1636	6214	Statistical studies
1637	6215	Special contracts
1638	6216	Carrier operations, receipts and expenditures

Railroads, Motor Carriers, and Freight Forwarders

Contains similar provisions. Title III authorizes the Postmaster General to obtain transportation services for mail from regulated motor carriers and freight forwarders on exactly the same basis as he now does from the railways. The Postmaster General will be authorized to negotiate rates of compensation with scheduled air carriers as well as railways. The requirement that certain airport-to-post office transportation be performed by Government vehicles will be repealed. The residence requirement for star route contractors will be repealed. The bill will establish authority for the Postmaster General to enter into mail transportation contracts which require the use of more than one mode of transportation. The proposed revision will extend the statutory obligation of railway common carriers to transport mail and provide related services as rates prescribed by the Interstate Commerce Commission, to the two important segments of the transportation industry not now covered by any corresponding obligation—the regulated motor carriers and freight forwarders.

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COMMENTS:

National Star Route Mail Carriers' Association (Mr. Fuquay, p. 467) recommended that present star route system be continued. *A*

National Federation of Post Office Motor Vehicle Employees (Mr. Parrish, p. 717)—

(1) Continue requirement (39 U.S.C. 6402(a)(5)) that airport to post office transportation be by postal service vehicles when distance is not more than 35 miles.

(2) Continue requirement (39 U.S.C. 6411) that transportation be on competitive sealed bid basis.

Transportation Association of America (Mr. Smith, p. 696)—

(1) Give preference to regulated carriers when available.

(2) Subject special contracts to ICC approval.

(3) Parcel Post service should reflect full cost of service.

American Trucking Association (Mr. Pinkney, p. 573)—

(1) Obligation to carry mail should not go to all regular and irregular carriers but only those who have submitted "a tender of availability."

(2) Initial rates should not be fixed by Postal Service without some recourse to recover underpayments when rates are fixed by ICC

(Mr. Callan, p. 578)—

(1) Give Postal Service authority to procure transportation at rates fixed by ICC.

(2) Eliminate provisions permitting liens for nonpayment to employees of contractors, free transportation of postal employees, fines and penalties, and requirement to transport mail when carrier is not equipped, and several other provisions.

TRANSPORTATION—Continued

COMMENTS—Continued

Association of American Railroads (Mr. Thomas, p. 484 on H.R. 4 and p. 585 on H.R. 11750)—

- (1) Remove restriction on use of motor vehicles by railroads.
- (2) Eliminate obligation to transport mail on trains.
- (3) Eliminate free transportation for postal employees except when in charge of the mail.
- (4) Eliminate obligation to furnish RPO cars and HPO vehicles.
- (5) Provide separate compensation, fixed by ICC, for station space and services.
- (6) Limit fines and deductions and provide for review by ICC.
- (7) Eliminate provision for initial rates.
- (8) Require filing and disclosure of special contracts and require payment of prevailing wages.
- (9) Compensate carrier for full cost of specially required services, and to indemnify carriers for loss of investment resulting from Postal Service discontinuance of specially required services.

GAO (p. 1121) recommends—

- (1) Congress should consider advisability of specifically requiring formal advertising procedures when contracting for transportation services.
- (2) Provision (sec. 1628 of H.R. 11750 and sec. 6203 of H.R. 4) requiring carriers to furnish certain facilities is mandatory and needs clarification since many of the facilities probably could not be provided by many carriers, such as station space to handle and store mail.

Interstate Commerce Commission (Virginia Mae Brown, p. 1267)—

Commission supports legislation that would permit general use of all regulated surface carriers transporting mail on same basis, but has reservations on provisions of bill relating to (1) service and facilities, and (2) rate fixing—

- (1) Congress should consider the need for mandatory duty to transport mail, possibly substituting a "tender of availability" system particularly as to motor bus carriers.
- (2) Specific ratemaking provisions are not appropriate to all carriers, such as motor carriers and freight forwarders, and, initial rates, particularly, should be negotiated.

(See Post Office Department memo, pp. 1230-1232.)

National Association of Motor Bus Owners (Mr. Webb, p. 1191)—

Passenger-carrying motor buses should be eliminated from definition of "carrier" (sec. 1625 of H.R. 11750, sec. 6201 of H.R. 4) and a new section inserted relating to agreements with passenger common carriers by motor vehicle.

TRANSPORTATION—Continued

H.R. 11750

H.R. 4

Transportation of Mail by Air

Secs. 1651-1652, p. 107. These sections continue, and make conforming changes in, existing law for air transportation relating to air transportation (sec. 6301), and fines (sec. 6304). ----- No change in existing provisions.

Contracts for Transportation by Air

Sec. 1653, p. 107.. This section authorizes special contracts with air carriers and in lieu of the existing air star route (sec. 6303) and other special provisions of law. Secs. 6301(a), 6402, pp. 22-23. Similar provisions.

Contracts may be with—
Certified carriers over their routes,
Noncertified carrier until there is a certified carrier for the route (old star route, sec. 6303) or when adequate service is not available by a certified carrier.

COMMENTS:

National Air Carriers Association (Mr. Driscoll, p. 374) recommends that supplemental air carriers not be prevented from furnishing transportation.

Air Transport Association of America (Mr. Phillion, p. 517) recommends elimination of air transport contracting authority. Also see supplemental statement p. 1275.

Civil Aeronautics Board (Mr. Littell, pp. 1148 and 1286), comments that authority to contract for mail transportation by air (sec. 1653 (a) and (c) of H.R. 11750) can lead to a resumption of contract bidding regime which Congress found in 1938 to be contrary to public interests (see H. Rept. No. 2254, 75th Cong.). Sec. 405 (b) of Federal Aviation Act (49 U.S.C. 1375(b)) now authorizes Postmaster General to designate schedules on which certified carriers are to transport mail and permits him to establish additional mail schedules. Board, under sec. 417 (49 U.S.C. 1387) may authorize supplemental air carriers to fill temporary need, and Board has authority to fix rates to insure that postal service pay only "fair and reasonable" rate.

See Post Office Department memo on Transportation (p. 1232).

TRANSPORTATION—Continued

H.R. 11750

H.R. 4

Water Transportation

Secs. 1676-1679, pp. 109-110. These sections make conforming changes and continue existing laws relating to water transportation. ----- No change in existing provisions.

New section 39 U.S.C.	Existing section 39 U.S.C.	
1676	6404	Postal service on vessels
1677	6406	Transportation to foreign ports
1678	6410	Transportation of mail as freight or express
1679	6435	Fines on ocean carriers

MISCELLANEOUS

Secs. 1801-1810 of H.R. 11750 reenact, in substantially the same form, existing provisions of law listed below. H.R. 4 continues the same provisions in effect, without any change.

New section 39 U.S.C.	Current section 39 U.S.C.	
1801	2010	Relating to contracts for equipment or supplies to be manufactured by convict labor.
1802	3116(a)	Designation of uniforms for employees
1803	3115	Temporary or contract special delivery carriers to be considered as employees for purpose of criminal statutes (18 U.S.C. 1701, 1708, and 2114).
1804	2401(a), (b)	Collection of debts and fines due Postal Service.
1805	2402	Administration of accounts for international mail.
1806	2407	Informers fees.
1807	2410	Delivery of stolen money to owner.
1808	2411	Issuance of substitute checks.
1809	4369	Filing of information for 2d class mail publications.
1810	2506	Printing illustrations of postage stamps.



*91st Cong
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