112TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPT. 112–363, Part 1

POSTAL REFORM ACT OF 2011

JANUARY 17, 2012.—Ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2309]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 2309) to restore the financial solvency of the United States Postal Service and to ensure the efficient and affordable nationwide delivery of mail, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

The amendment is as follows:

Strike all after the enacting clause and insert the following:

19–006

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Postal Reform Act of 2011".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

(c) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 39, United States Code.

TITLE I—POSTAL SERVICE MODERNIZATION

Subtitle A—Commission on Postal Reorganization

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Commission on Postal Reorganization Act" or the "CPR Act".

SEC. 102. DEFINITIONS.

For purposes of this title—

(1) the term "Postal Service" means the United States Postal Service;

(2) the term "postal retail facility" means a post office, post office branch, post office classified station, or other facility which is operated by the Postal Service, and the primary function of which is to provide retail postal services;

(3) the term "mail processing facility" means a processing and distribution center, processing and distribution facility, network distribution center, or other facility which is operated by the Postal Service, and the primary function of which is to sort and process mail;

(4) the term "district office" means the central office of an administrative field unit with responsibility for postal operations in a designated geographic area (as defined under regulations, directives, or other guidance of the Postal Service, as in effect on June 23, 2011);

(5) the term "area office" means the central office of an administrative field unit with responsibility for postal operations in a designated geographic area which is comprised of designated geographic areas as referred to in paragraph (4);

(6) the term "baseline year" means the fiscal year last ending before the date of the enactment of this Act; and

(7) the term "Member of Congress" has the meaning given such term by section 2106 of title 5, United States Code.

SEC. 103. COMMISSION ON POSTAL REORGANIZATION.

(a) ESTABLISHMENT.—There shall be established, not later than 90 days after the date of the enactment of this Act, an independent commission to be known as the "Commission on Postal Reorganization" (hereinafter in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall carry out the duties specified for it in this subtitle.

(c) MEMBERS.—

(1) IN GENERAL.—The Commission shall be composed of 5 members who shall be appointed by the President, and of whom—

(A) 1 shall be appointed from among individuals recommended by the Speaker of the House of Representatives;

(B) 1 shall be appointed from among individuals recommended by the majority leader of the Senate;

(C) 1 shall be appointed from among individuals recommended by the minority leader of the House of Representatives;

(D) 1 shall be appointed from among individuals recommended by the minority leader of the Senate; and

(E) 1 shall be appointed from among individuals recommended by the Comptroller General.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Commission shall be chosen to represent the public interest generally, and shall not be representatives of specific interests using the Postal Service.

(B) INELIGIBILITY.—An individual may not be appointed to serve as a member of the Commission if such individual is a Member of Congress or served as an employee of the Postal Service or the Postal Regulatory Commission, or of a labor organization representing employees of the Postal Service or the Postal Regulatory Commission, during the 3-year period ending on the date of such appointment.

(3) POLITICAL AFFILIATION.—Not more than 3 members of the Commission may be of the same political party.

(d) TERMS.—Each member of the Commission shall be appointed for the life of the Commission and may be removed only for cause.

(e) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) CHAIRMAN.—The President shall, at the time of making appointments under subsection (c), designate one of the members to serve as chairman of the Commission.

(g) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Commission shall be paid at a rate equal to the daily equivalent of $40,000 per year for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) EXCEPTION.—Any member of the Commission who is a full-time officer or employee of the United States may not receive additional pay, allowances, or benefits by reason of such member's service on the Commission.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions of subchapter I of chapter 57 of title 5, United States Code.

(h) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission. The Director shall be paid at the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code. An appointment under this subsection shall be subject to the requirements of subsection (c)(2).

(i) ADDITIONAL PERSONNEL.—With the approval of the Commission, the Director may appoint and fix the pay of such additional personnel as the Director considers appropriate. Such additional personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay at a rate of basic pay in excess of the rate of basic pay payable to the Director. An individual appointed under this subsection shall serve at the pleasure of the Director.

(j) PROVISIONS RELATING TO DETAILS.—

(1) IN GENERAL.—Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of such department or agency to the Commission to assist the Commission in carrying out its duties under this subtitle. Notwithstanding any other provision of law, to provide continuity in the work of the Commission, such details may be extended beyond 1 year at the request of the Director.

(2) NUMERICAL LIMITATION.—Not more than ⅓ of the personnel of the Commission may consist of the number of individuals on detail from the Postal Service and the Postal Regulatory Commission combined.

(3) OTHER LIMITATIONS.—A person may not be detailed to the Commission from the Postal Service or the Postal Regulatory Commission if such person participated personally and substantially on any matter, within the Postal Service or the Postal Regulatory Commission, concerning the preparation of recommendations for closures or consolidations of postal facilities under this subtitle. No employee of the Postal Service or the Postal Regulatory Commission (including a detailee to the Postal Service or the Postal Regulatory Commission) may—

(A) prepare any report concerning the effectiveness, fitness, or efficiency of the performance, on the staff of the Commission, of any person detailed from the Postal Service or the Postal Regulatory Commission to such staff;

(B) review the preparation of such a report; or

(C) approve or disapprove such a report.

(k) OTHER AUTHORITIES.—

(1) EXPERTS AND CONSULTANTS.—The Commission may procure by contract, to the extent funds are available, temporary or intermittent services under section 3109 of title 5, United States Code.

(2) LEASING, ETC.—The Commission may lease space and acquire personal property to the extent funds are available.

(l) AUTHORIZATION OF APPROPRIATIONS.—In order to carry out this section, there are authorized to be appropriated out of the Postal Service Fund $20,000,000, which funds shall remain available until expended.

(m) FINANCIAL REPORTING.—

(1) AUDIT AND EXPENDITURES.—The Commission shall be responsible for issuing annual financial statements and for establishing and maintaining adequate controls over its financial reporting.

(2) INTERNAL AUDITS.—The Commission shall maintain an adequate internal audit of its financial transactions.

(3) ANNUAL CERTIFICATION.—The Commission shall obtain an annual certification for each fiscal year from an independent, certified public accounting firm of the accuracy of its financial statements.

(4) COMPTROLLER GENERAL.—The accounts and operations of the Commission shall be audited by the Comptroller General and reports thereon made to the Congress to the extent and at such times as the Comptroller General may determine.

(n) TERMINATION.—The Commission shall terminate 60 days after submitting its final reports under section 104(d)(3).

SEC. 104. RECOMMENDATIONS FOR CLOSURES AND CONSOLIDATIONS.

(a) PLAN FOR THE CLOSURE OR CONSOLIDATION OF POSTAL RETAIL FACILITIES.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Postal Service, in consultation with the Postal Regulatory Commission, shall develop and submit to the Commission on Postal Reorganization a plan for the closure or consolidation of such postal retail facilities as the Postal Service considers necessary and appropriate so that the total annual costs attributable to the operation of postal retail facilities will be, for each fiscal year beginning at least 2 years after the date on which the Commission transmits to Congress its final report under subsection (d)(3)(A) relating to this subsection, at least $1,000,000,000 less than the corresponding total annual costs for the baseline year.

(2) CONTENTS.—The plan shall include—

(A) a list of the postal retail facilities proposed for closure or consolidation under this subtitle;

(B) a proposed schedule under which—

(i) closures and consolidations of postal retail facilities would be carried out under this subtitle; and

(ii) all closures and consolidations of postal retail facilities under this subtitle would be completed by not later than 2 years after the date on which the Commission transmits to Congress its final report under subsection (d)(3)(A) relating to such plan;

(C) the estimated total annual cost savings attributable to the proposed closures and consolidations described in the plan;

(D) the criteria and process used to develop the information described in subparagraphs (A) and (B);

(E) the methodology and assumptions used to derive the estimates described in subparagraph (C); and

(F) any changes to the processing, transportation, delivery, or other postal operations anticipated as a result of the proposed closures and consolidations described in the plan.

(3) CONSISTENCY.—The methodology and assumptions used to derive the cost estimates described in paragraph (2)(C) shall be consistent with the methodology and assumptions which would have been used by the Postal Service if those closures and consolidations had instead taken effect in the baseline year.

(b) PLAN FOR THE CLOSURE OR CONSOLIDATION OF MAIL PROCESSING FACILITIES.—

(1) IN GENERAL.—Not later than 300 days after the date of the enactment of this Act, the Postal Service, in consultation with the Inspector General of the United States Postal Service, shall develop and submit to the Commission on Postal Reorganization a plan for the closure or consolidation of such mail processing facilities as the Postal Service considers necessary and appropriate so that—

(A) the total annual costs attributable to the operation of mail processing facilities will be, for each fiscal year beginning at least 2 years after the date on which the Commission transmits to Congress its final report under subsection (d)(3)(A) relating to this subsection, at least $2,000,000,000 less than the corresponding total annual costs for the baseline year; and

(B) the Postal Service has, for fiscal years beginning at least 2 years after the date on which the Commission transmits to Congress its final report under subsection (d)(3)(A) relating to this subsection, no more than 10 percent excess mail processing capacity.

(2) CONTENTS.—The plan shall include—

(A) a list of the mail processing facilities proposed for closure or consolidation under this subtitle;

(B) a proposed schedule under which—

(i) closures and consolidations of mail processing facilities would be carried out under this subtitle; and

(ii) all closures and consolidations of mail processing facilities under this subtitle would be completed by not later than 2 years after the date on which the Commission transmits to Congress its final report under subsection (d)(3)(A) relating to such plan;

(C) the estimated total annual cost savings attributable to the proposed closures and consolidations described in the plan;

(D) the criteria and process used to develop the information described in subparagraphs (A) and (B);

(E) the methodology and assumptions used to derive the estimates described in subparagraph (C); and

(F) any changes to the processing, transportation, delivery, or other postal operations anticipated as a result of the proposed closures and consolidations described in the plan.

(3) CONSISTENCY.—The methodology and assumptions used to derive the cost estimates described in paragraph (2)(C) shall be consistent with the methodology and assumptions which would have been used by the Postal Service if those closures and consolidations had instead taken effect in the baseline year.

(4) EXCESS MAIL PROCESSING CAPACITY.—The Commission shall cause to be published in the Federal Register notice of a proposed definition of "excess mail processing capacity" for purposes of this section within 120 days after the date of the enactment of this Act, and shall provide a period of 30 days for public comment on the proposed definition. Not later than 180 days after the date of the enactment of this Act, the Commission shall issue and cause to be published in the Federal Register a final definition of "excess mail processing capacity" for purposes of this section. Such definition shall include an estimate of the total amount of excess mail processing capacity in mail processing facilities as of the date of the enactment of this Act.

(5) UNDERUTILIZED MAIL PROCESSING FACILITIES.—In developing a plan under this subsection, the Postal Service may include the estimated total cost savings that would result from moving mail processing operations to any mail processing facility that, as of the date of introduction of this Act—

(A) is not currently used by the Postal Service; and

(B) is capable of processing mail to the Postal Service's standards.

(c) PLAN FOR THE CLOSURE OR CONSOLIDATION OF AREA AND DISTRICT OFFICES.—

(1) IN GENERAL.—Not later than 300 days after the date of the enactment of this Act, the Postal Service, in consultation with the Inspector General of the United States Postal Service, shall develop and submit to the Commission on Postal Reorganization a plan for the closure or consolidation of such area and district offices as the Postal Service considers necessary and appropriate so that the combined total number of area and district offices will be, for each fiscal year beginning at least 2 years after the date on which the Commission transmits to Congress its final report under subsection (d)(3)(A) relating to this subsection, at least 30 percent less than the corresponding combined total for the baseline year.

(2) CONTENTS.—The plan shall include—

(A) a list of the area and district offices proposed for closure or consolidation under this subtitle;

(B) a proposed schedule under which—

(i) closures and consolidations of area and district offices would be carried out under this subtitle; and

(ii) all closures and consolidations of area and district offices under this subtitle would be completed by not later than 2 years after the date on which the Commission transmits to Congress its final report under subsection (d)(3)(A) relating to such plan;

(C) the estimated total annual cost savings attributable to the proposed closures and consolidations described in the plan;

(D) the criteria and process used to develop the information described in subparagraphs (A) and (B);

(E) the methodology and assumptions used to derive the estimates described in subparagraph (C); and

(F) any changes to the processing, transportation, delivery, or other postal operations anticipated as a result of the proposed closures and consolidations described in the plan.

(3) CONSISTENCY.—The methodology and assumptions used to derive the cost estimates described in paragraph (2)(C) shall be consistent with the method-

ology and assumptions which would have been used by the Postal Service if those closures and consolidations had instead taken effect in the baseline year.

(d) REVIEW AND RECOMMENDATIONS OF THE COMMISSION.—

(1) INITIAL REPORTS.—

(A) IN GENERAL.—After receiving the plan of the Postal Service under subsection (a), (b), or (c), the Commission on Postal Reorganization shall transmit to Congress and publish in the Federal Register a report under this paragraph, which shall contain the Commission's findings based on a review and analysis of such plan, together with the Commission's initial recommendations for closures and consolidations of postal facilities, mail processing facilities, or area and district offices (as the case may be).

(B) EXPLANATION OF CHANGES.—The Commission shall explain and justify in its report any recommendations made by the Commission that are different from those contained in the Postal Service plan to which such report pertains.

(C) DEADLINES.—A report of the Commission under this paragraph shall be transmitted and published, in accordance with subparagraph (A), within—

(i) if the report pertains to the plan under subsection (a), 60 days after the date on which the Commission receives such plan; or

(ii) if the report pertains to the plan under subsection (b) or (c), 90 days after the date on which the Commission receives such plan.

(2) PUBLIC HEARINGS.—

(A) IN GENERAL.—After receiving the plan of the Postal Service under subsection (a), (b), or (c), the Commission on Postal Reorganization shall conduct at least 5 public hearings on such plan. The hearings shall be conducted in geographic areas chosen so as to reflect a broadly representative range of needs and interests.

(B) TESTIMONY.—All testimony before the Commission at a public hearing conducted under this paragraph shall be given under oath.

(C) DEADLINES.—All hearings under this paragraph shall be completed within 60 days after the date as of which the Commission satisfies the requirements of paragraph (1) with respect to such plan.

(3) FINAL REPORTS.—

(A) IN GENERAL.—After satisfying the requirements of paragraph (2) with respect to the plan of the Postal Service under subsection (a), (b), or (c) (as the case may be), the Commission shall transmit to Congress and publish in the Federal Register a report under this paragraph containing a summary of the hearings conducted with respect to such plan, together with the Commission's final recommendations for closures and consolidations of postal facilities, mail processing facilities, or area and district offices (as the case may be).

(B) APPROVAL.—Recommendations under subparagraph (A) shall not be considered to be final recommendations unless they are made with—

(i) except as provided in clause (ii), the concurrence of at least 4 members of the Commission; or

(ii) to the extent that the requirements of subsection (b)(1)(A) or (c)(1) are not met, the concurrence of all sitting members, but only if the shortfall (relative to the requirements of subsection (b)(1)(A) or (c)(1), as the case may be) does not exceed 25 percent.

(C) CONTENTS.—A report under this paragraph shall include—

(i) the information required by paragraph (2) of subsection (a), (b), or (c) (as the case may be); and

(ii) a description of the operations that will be affected by the closure or consolidation and the facilities or offices which will be performing or ceasing to perform such operations as a result of such closure or consolidation.

(D) DEADLINES.—A report of the Commission under this paragraph shall be transmitted and published, in accordance with subparagraph (A), within 60 days after the date as of which the Commission satisfies the requirements of paragraph (2) with respect to the plan involved.

(e) LIMITATION RELATING TO POSTAL RETAIL FACILITIES IDENTIFIED FOR CLOSURE OR CONSOLIDATION.—

(1) APPLICABILITY.—This subsection applies to any plan of the Postal Service under subsection (a) and any report of the Commission under subsection (d) (whether initial or final) pertaining to such plan.

(2) LIMITATION.—Of the total number of postal retail facilities recommended for closure or consolidation (combined) under any plan or report to which this subsection applies, the number of such facilities that are within the K or L cost

ascertainment grouping (combined) shall account for not more than 10 percent of such total number.

(3) REFERENCES.—For purposes of this subsection—

(A) any reference to a "cost ascertainment grouping" shall be considered to refer to a cost ascertainment grouping as described in section 123.11 of the Postal Operations Manual (as in effect on June 23, 2011); and

(B) any reference to a particular category (designated by a letter) of a cost ascertainment grouping shall be considered to refer to such category, as described in such section 123.11 (as in effect on the date specified in subparagraph (A)).

(f) ANNUAL REPORTS.—

(1) IN GENERAL.—There shall be included in the next 5 annual reports submitted under section 2402 of title 39, United States Code, beginning with the report covering any period of time occurring after the date of enactment of this Act, the following (shown on a State-by-State basis):

(A) In connection with closures and consolidations taking effect in the year covered by the report, the total number of individuals separated from employment with the Postal Service, including, if separation occurs in a year other than the year in which the closing or consolidation occurs, the year in which separation occurs.

(B) Of the total numbers under subparagraph (A)—

(i) the number and percentage comprising preference eligibles or veterans; and

(ii) the number and percentage comprising individuals other than preference eligibles or veterans.

(C) Of the total numbers under subparagraph (A), the number and percentage reemployed in a position within the general commuting area of the facility or office involved (including, if reemployment occurs in a year other than the year in which the closing or consolidation occurs, the year in which reemployment occurs)—

(i) with the Postal Service; or

(ii) with an employer other than the Postal Service.

(D) The methodology and assumptions used to derive the estimates described in subparagraph (B).

(E) The criteria and process used to develop the information described in subparagraph (C).

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "preference eligible" has the meaning given such term in section 2108(3) of title 5, United States Code; and

(B) the term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

SEC. 105. IMPLEMENTATION OF CLOSURES AND CONSOLIDATIONS.

(a) IN GENERAL.—Subject to subsection (b), the Postal Service shall—

(1) close or consolidate (as the case may be) the facilities and offices recommended by the Commission in each of its final reports under section 104(d)(3); and

(2) carry out those closures and consolidations in accordance with the timetable recommended by the Commission in such report, except that in no event shall any such closure or consolidation be completed later than 2 years after the date on which such report is submitted to Congress.

(b) CONGRESSIONAL DISAPPROVAL.—

(1) IN GENERAL.—The Postal Service may not carry out any closure or consolidation recommended by the Commission in a final report if a joint resolution disapproving the recommendations of the Commission is enacted, in accordance with section 106, before the earlier of—

(A) the end of the 30-day period beginning on the date on which the Commission transmits those recommendations to Congress under section 104(d)(3); or

(B) the adjournment of the Congress sine die for the session during which such report is transmitted.

(2) DAYS OF SESSION.—For purposes of paragraph (1) and subsections (a) and (c) of section 106, the days on which either House of Congress is not in session because of an adjournment of more than 7 days to a day certain shall be excluded in the computation of a period.

SEC. 106. CONGRESSIONAL CONSIDERATION OF FINAL CPR REPORTS.

(a) TERMS OF THE RESOLUTION.—For purposes of this subtitle, the term "joint resolution", as used with respect to a report under section 104(d)(3), means only a joint resolution—

(1) which is introduced within the 10-day period beginning on the date on which such report is received by Congress;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Commission on Postal Reorganization, submitted by such Commission on ____, and pertaining to the closure or consolidation of ____.", the first blank space being filled in with the appropriate date and the second blank space being filled in with "postal retail facilities", "mail processing facilities", or "area and district offices" (as the case may be);

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Commission on Postal Reorganization."; and

(4) which does not have a preamble.

(b) REFERRAL.—A resolution described in subsection (a) that is introduced in the House of Representatives or the Senate shall be referred to the appropriate committees of the House of Representatives or the Senate, respectively.

(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the Commission transmits the report (to which such resolution pertains) to Congress under section 104(d)(3), such committee shall, at the end of such period, be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION.—

(1) IN GENERAL.—On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. A Member may make the motion only on the day after the calendar day on which the Member announces to the House concerned the Member's intention to make the motion, except that, in the case of the House of Representatives, the motion may be made without such prior announcement if the motion is made by direction of the committee to which the resolution was referred. All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION BY OTHER HOUSE.—

(1) IN GENERAL.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution (described in subsection (a)) relating to the same report, then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to the resolution described in subsection (a) (relating to the report in question) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution (relating to the same report) had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) DISPOSITION OF A RESOLUTION.—Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 107. NONAPPEALABILITY OF DECISIONS.

(a) TO PRC.—The closing or consolidation of any facility or office under this subtitle may not be appealed to the Postal Regulatory Commission under section 404(d) or any other provision of title 39, United States Code, or be the subject of an advisory opinion issued by the Postal Regulatory Commission under section 3661 of such title.

(b) JUDICIAL REVIEW.—No process, report, recommendation, or other action of the Commission on Postal Reorganization shall be subject to judicial review.

SEC. 108. RULES OF CONSTRUCTION.

(a) CONTINUED AVAILABILITY OF AUTHORITY TO CLOSE OR CONSOLIDATE POSTAL FACILITIES.—

(1) IN GENERAL.—Nothing in this subtitle shall be considered to prevent the Postal Service from closing or consolidating any postal facilities, in accordance with otherwise applicable provisions of law, either before or after the implementation of any closures or consolidations under this subtitle.

(2) COORDINATION RULE.—No appeal or determination under section 404(d) of title 39, United States Code, or any other provision of law shall delay, prevent, or otherwise affect any closure or consolidation under this subtitle.

(b) INAPPLICABILITY OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—The provisions of law identified in paragraph (2)—

(A) shall not apply to any closure or consolidation carried out under this subtitle; and

(B) shall not be taken into account for purposes of carrying out section 103 or 104.

(2) PROVISIONS IDENTIFIED.—The provisions of law under this paragraph are—

(A) section 101(b) of title 39, United States Code; and

(B) section 404(d) of title 39, United States Code.

SEC. 109. GAO STUDY AND REPORT.

(a) STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study on the effects, with respect to the unemployment rate of minority communities, of the proposed closures and consolidations of postal retail facilities, mail processing facilities, and area or district offices under this subtitle.

(b) REPORT.—Upon completion of the study required under subsection (a), the Comptroller General of the United States shall submit a report to Congress regarding the findings of such study.

Subtitle B—Other Provisions

SEC. 111. IMPLEMENTATION OF DISCRETIONARY NON-MAIL DELIVERY DAYS.

(a) IN GENERAL.—Section 404 is amended by inserting after subsection (e) the following:

"(f)(1) The Postmaster General may, with respect to any year for which 6-day delivery is otherwise required, declare up to 12 non-mail delivery days. Not later than 1 month before the beginning of the year, the Postmaster General shall submit to the Board of Governors a report listing the non-mail delivery days in such year.

"(2) A non-mail delivery day under this subsection shall be a day other than—

"(A) a Sunday;

"(B) a legal public holiday listed in section 6103(a) of title 5 or any other day declared to be a holiday by Federal statute or Executive order; or

"(C) during the 30-day period that ends on the date of a regularly scheduled general election for Federal office.

"(3) Any day which is declared under this subsection to be a non-mail delivery day—

"(A) shall, for purposes of mail delivery and such other postal operations as the Postal Service may by regulation prescribe, be treated as if it were a Sunday; except that

"(B) an employee of the Postal Service (other than one who is prevented from working on such day by reason of this subsection) shall be entitled to the same pay and benefits for that day as if this subsection had not been enacted.

"(4)(A) The 6-day mail delivery requirement shall not apply with respect to a week in which a non-mail delivery day under this subsection occurs.

"(B) The authority to declare a non-mail delivery day under this subsection shall be considered to be within the right of the Postal Service to determine the methods, means, and personnel by which postal operations are to be conducted.

"(5) Not less than 6 months after the date of enactment of this subsection, the Postal Service may submit a proposal under section 3661 for a nationwide change in service to reduce mail delivery from 6 days to 5 days each week. Notwithstanding any other provision of law, the Postal Service shall maintain 6-day delivery service as the standard mail delivery schedule until 90 days following the rendering of an advisory opinion on 5-day delivery by the Postal Regulatory Commission.".

SEC. 112. EFFICIENT AND FLEXIBLE UNIVERSAL POSTAL SERVICE.

(a) POSTAL POLICY.—

(1) IN GENERAL.—Section 101(b) is amended to read as follows:

"(b) The Postal Service shall provide effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining.".

(2) CONFORMING AMENDMENTS.—Clause (iii) of section 404(d)(2)(A) is amended to read as follows:

"(iii) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b), that the Postal Service shall provide effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;".

(b) GENERAL DUTY.—Paragraph (3) of section 403(b) is amended to read as follows:

"(3) to ensure that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.".

(c) PRC REVIEW OF DETERMINATIONS TO CLOSE OR CONSOLIDATE A POST OFFICE.—

(1) DEADLINE FOR REVIEW.—Section 404(d)(5) is amended by striking "120 days" and inserting "60 days".

(2) EXCLUSION FROM REVIEW.—Section 404(d) is amended by adding at the end the following:

"(7)(A) The appeals process set forth in paragraph (5) shall not apply to a determination of the Postal Service to close a post office if there is located, within 2 miles of such post office, a qualified contract postal unit.

"(B) For purposes of this paragraph—

"(i) the term 'contract postal unit' means a store or other place of business which—

"(I) is not owned or operated by the Postal Service; and

"(II) in addition to its usual operations, provides postal services to the general public under contract with the Postal Service; and

"(ii) the term 'qualified contract postal unit', as used in connection with a post office, means a contract postal unit which—

"(I) begins to provide postal services to the general public during the period—

"(aa) beginning 1 year before the date on which the closure or consolidation of such post office is scheduled to take effect; and

"(bb) ending on the 15th day after the date on which the closure or consolidation of such post office is scheduled to take effect; and

"(II) has not, pursuant to subparagraph (A), served as the basis for exempting any other post office from the appeals process set forth in paragraph (5).

"(C)(i) If the contract postal unit (which is providing postal services that had been previously provided by the post office that was closed) does not continue to provide postal services, as required by subparagraph (B)(i)(II), for at least the 2-year period beginning on the date on which such post office was closed, the contract postal unit shall be subject to a closure determination by the Postal Service to decide whether a post office must be reopened within the area (delimited by the 2-mile radius referred to in subparagraph (A)).

"(ii) A decision under clause (i) not to reopen a post office may be appealed to the Postal Regulatory Commission under procedures which the Commission shall by regulation prescribe. Such procedures shall be based on paragraph (5), except that, for purposes of this clause, paragraph (5)(C) shall be applied by substituting 'in violation of section 101(b), leaving postal patrons without effective and regular access to postal services' for 'unsupported by substantial evidence on the record'.".

(3) APPLICABILITY.—The amendments made by this subsection shall not apply with respect to any appeal, notice of which is received by the Postal Regulatory Commission before the date of the enactment of this Act (determined applying the rules set forth in section 404(d)(6) of title 39, United States Code).

(d) EXPEDITED PROCEDURES.—

(1) IN GENERAL.—Section 3661 is amended by adding at the end the following:

"(d)(1) The Commission shall issue its opinion within 90 days after the receipt of any proposal (as referred to in subsection (b)) concerning—

"(A) the closing or consolidation of postal retail facilities (as that term is defined in section 102(2) of the Postal Reform Act of 2011) to a degree that will generally affect service on a nationwide or substantially nationwide basis; or

"(B) an identical or substantially identical proposal on which the Commission issued an opinion within the preceding 5 years.

"(2) If necessary in order to comply with the 90-day requirement under paragraph (1), the Commission may apply expedited procedures which the Commission shall by regulation prescribe.".

(2) REGULATIONS.—The Postal Regulatory Commission shall prescribe any regulations necessary to carry out the amendment made by paragraph (1) within 90 days after the date of the enactment of this Act.

(3) APPLICABILITY.—The amendment made by this subsection shall apply with respect to any proposal received by the Postal Regulatory Commission on or after the earlier of—

(A) the 90th day after the date of the enactment of this Act; or

(B) the effective date of the regulations under paragraph (2).

SEC. 113. ENHANCED REPORTING ON POSTAL SERVICE EFFICIENCY.

Section 3652(a) is amended—

(1) in paragraph (1), by striking "and" after the semicolon;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding after paragraph (2) the following:

"(3) which shall provide the overall change in Postal Service productivity and the resulting effect of such change on overall Postal Service costs during such year, using such methodologies as the Commission shall by regulation prescribe.".

SEC. 114. APPLICABILITY OF PROCEDURES RELATING TO CLOSURES AND CONSOLIDATIONS.

(a) IN GENERAL.—Section 404(d) is amended by adding after paragraph (7) (as added by section 112(c)(2)) the following:

"(8) For purposes of this subsection, the term 'post office' means a post office and any other facility described in section 102(2) of the Postal Reform Act of 2011.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to any closure or consolidation, the proposed effective date of which occurs on or after the 60th day following the date of enactment of this Act.

TITLE II—POSTAL SERVICE FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

Subtitle A—Establishment and Organization

SEC. 201. PURPOSES.

(a) PURPOSES.—The purposes of this title are as follows:

(1) To eliminate budget deficits and cash shortages of the Postal Service through strategic financial planning, sound budgeting, accurate revenue forecasts, and careful spending.

(2) To ensure the universal service mandate detailed in section 101 of title 39, United States Code, is maintained during a period of fiscal emergency.

(3) To conduct necessary investigations and studies to determine the fiscal status and operational efficiency of the Postal Service.

(4) To assist the Postal Service in—

(A) restructuring its organization and workforce to bring expenses in line with diminishing revenue and generate sufficient profits for capital investment and repayment of debt;

(B) meeting all fiscal obligations to the Treasury of the United States; and

(C) ensuring the appropriate and efficient delivery of postal services.

(5) To provide the Postal Service with a temporary increase in its borrowing authority to enable the Postal Service to complete necessary restructuring.

(6) To ensure the long-term financial, fiscal, and economic vitality and operational efficiency of the Postal Service.

(b) RESERVATION OF POWERS.—Nothing in this title may be construed—

(1) to relieve any obligations existing as of the date of the enactment of this Act of the Postal Service to the Treasury of the United States; or

(2) to limit the authority of Congress to exercise ultimate legislative authority over the Postal Service.

SEC. 202. ESTABLISHMENT OF THE AUTHORITY.

(a) ESTABLISHMENT.—There shall be established, upon the commencement of any control period, an entity to be known as the "Postal Service Financial Responsibility and Management Assistance Authority" (hereinafter in this title referred to as the "Authority").

(b) CONTROL PERIOD.—

(1) COMMENCEMENT OF A CONTROL PERIOD.—

(A) IN GENERAL.—For the purposes of this title, a control period commences whenever the Postal Service has been in default to the Treasury of the United States, with respect to any debts, obligations, loans, bonds, notes, or other form of borrowing, or any scheduled payments to any fund in the Treasury of the United States, for a period of at least 30 days.

(B) ADVISORY PERIOD.—For purposes of the first control period, the Authority shall operate exclusively in an advisory period for two full fiscal years after the commencement of the control period. At the completion of the second full fiscal year or any year thereafter during the length of the control period, if the Postal Service's annual deficit is greater than $2,000,000,000, the Authority shall be fully in force according to the provisions of this title. During an advisory period—

(i) the Authority is not authorized to employ any staff and the Postal Service shall designate a Level-Two Postal Service Executive as a liaison with the members of the Authority;

(ii) any provision of this title that requires the Authority or the Postal Service to take any action shall be considered only to take effect in the event the Authority comes into full force and that effective date shall be considered to be the date of the commencement of the control period for the purposes any provision not mention in this subparagraph; and

(iii) the Postal Service shall have access to the funds available under section 222 according to applicable provisions of this Act, subject to the approval of the Postal Service Board of Governors without the approval of the Authority.

(2) TREATMENT OF AUTHORITIES AND RESPONSIBILITIES OF THE BOARD OF GOVERNORS, ETC. DURING A CONTROL PERIOD.—During a control period—

(A) all authorities and responsibilities of the Board of Governors, and the individual Governors, of the Postal Service under title 39, United States Code, and any other provision of law shall be assumed by the Authority; and

(B) the Board of Governors, and the individual Governors, may act in an advisory capacity only.

(3) TREATMENT OF CERTAIN POSTAL SERVICE EXECUTIVES DURING A CONTROL PERIOD.—

(A) DEFINITION.—For the purposes of this section, the term "Level-Two Postal Service Executive" includes the Postmaster General, the Deputy

Postmaster General, and all other officers or employees of the Postal Service in level two of the Postal Career Executive Service (or the equivalent).

(B) TREATMENT.—Notwithstanding any other provision of law or employment contract, during a control period—

(i) all Level-Two Postal Service Executives shall serve at the pleasure of the Authority;

(ii) the duties and responsibilities of all Level-Two Postal Service Executives, as well as the terms and conditions of their employment (including their compensation), shall be subject to determination or redetermination by the Authority;

(iii) total compensation of a Level-Two Postal Service Executive may not, for any year in such control period, exceed the annual rate of basic pay payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, for such year; for purposes of this clause, the term "total compensation" means basic pay, bonuses, awards, and all other monetary compensation;

(iv) the percentage by which the rate of basic pay of a Level-Two Postal Service Executive is increased during any year in such control period may not exceed the percentage change in the Consumer Price Index for All Urban Consumers, unadjusted for seasonal variation, for the most recent 12-month period available, except that, in the case of a Level-Two Postal Service Executive who has had a significant change in job responsibilities, a greater change shall be allowable if approved by the Authority;

(v) apart from basic pay, a Level-Two Postal Service Executive may not be afforded any bonus, award, or other monetary compensation for any fiscal year in the control period if expenditures of the Postal Service for such fiscal year exceeded revenues of the Postal Service for such fiscal year (determined in accordance with generally accepted accounting principles); and

(vi) no deferred compensation may be paid, accumulated, or recognized in the case of any Level-Two Postal Service Executive, with respect to any year in a control period, which is not generally paid, accumulated, or recognized in the case of employees of the United States (outside of the Postal Service) in level I of the Executive Schedule under section 5312 of title 5, United States Code, with respect to such year.

(C) BONUS AUTHORITY.—Section 3686 of title 39, United States Code, shall, during the period beginning on the commencement date of the control period and ending on the termination date of the control period—

(i) be suspended with respect to all Level-Two Postal Service Executives; but

(ii) remain in effect for all other officers and employees of the Postal Service otherwise covered by this section.

(4) TERMINATION OF A CONTROL PERIOD.—Subject to subtitle D, a control period terminates upon certification by the Authority, with the concurrence of the Secretary of the Treasury and the Director of the Office of Personnel Management, that—

(A) for 2 consecutive fiscal years (occurring after the date of the enactment of this Act), expenditures of the Postal Service did not exceed revenues of the Postal Service (as determined in accordance with generally accepted accounting principles);

(B) the Authority has approved a Postal Service financial plan and budget that shows expenditures of the Postal Service not exceeding revenues of the Postal Service (as so determined) for the fiscal year to which such budget pertains and each of the next 3 fiscal years; and

(C) the Postal Service financial plan and budget (as referred to in subparagraph (B)) includes plans—

(i) for the repayment of any supplementary debt under section 222, in equal annual installments over a period of not more than 5 years; and

(ii) to properly fund Postal Service pensions and retiree health benefits in accordance with law.

SEC. 203. MEMBERSHIP AND QUALIFICATION REQUIREMENTS.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Authority shall consist of 5 members appointed by the President who meet the qualifications described in subsection (b), except that

the Authority may take any action under this title at any time after the President has appointed 4 of its members.

(2) RECOMMENDATIONS.—Of the 5 members so appointed—

(A) 1 shall be appointed from among individuals recommended by the Speaker of the House of Representatives;

(B) 1 shall be appointed from among individuals recommended by the majority leader of the Senate;

(C) 1 shall be appointed from among individuals recommended by the minority leader of the House of Representatives;

(D) 1 shall be appointed from among individuals recommended by the minority leader of the Senate; and

(E) 1 shall be appointed from among individuals recommended by the Comptroller General.

(3) POLITICAL AFFILIATION.—No more than 3 members of the Authority may be of the same political party.

(4) CHAIR.—The President shall designate 1 of the members of the Authority as the Chair of the Authority.

(5) SENSE OF CONGRESS REGARDING DEADLINE FOR APPOINTMENT.—It is the sense of Congress that the President should appoint the members of the Authority as soon as practicable after the date on which a control period commences, but no later than 30 days after such date.

(6) TERM OF SERVICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Authority shall be appointed for a term of 3 years.

(B) APPOINTMENT FOR TERM FOLLOWING INITIAL TERM.—As designated by the President at the time of appointment for the term immediately following the initial term, of the members appointed for the term immediately following the initial term—

(i) 1 member shall be appointed for a term of 1 year;

(ii) 2 members shall be appointed for a term of 2 years; and

(iii) 2 members shall be appointed for a term of 3 years.

(C) REMOVAL.—The President may remove any member of the Authority only for cause.

(D) NO COMPENSATION FOR SERVICE.—Members of the Authority shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Authority.

(b) QUALIFICATION REQUIREMENTS.—

(1) IN GENERAL.—An individual meets the qualifications for membership on the Authority if the individual—

(A) has significant knowledge and expertise in finance, management, and the organization or operation of businesses having more than 500 employees; and

(B) represents the public interest generally, is not a representative of specific interests using or belonging to the Postal Service, and does not have any business or financial interest in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

(2) SPECIFIC CONDITIONS.—An individual shall not be considered to satisfy paragraph (1)(B) if, at any time during the 5-year period ending on the date of appointment, such individual—

(A) has been an officer, employee, or private contractor with the Postal Service or the Postal Regulatory Commission; or

(B) has served as an employee or contractor of a labor organization representing employees of the Postal Service or the Postal Regulatory Commission.

SEC. 204. ORGANIZATION.

(a) ADOPTION OF BY-LAWS FOR CONDUCTING BUSINESS.—As soon as practicable after the appointment of its members, the Authority shall adopt by-laws, rules, and procedures governing its activities under this title, including procedures for hiring experts and consultants. Upon adoption, such by-laws, rules, and procedures shall be submitted by the Authority to the Postmaster General, the President, and Congress.

(b) CERTAIN ACTIVITIES REQUIRING APPROVAL OF MAJORITY OF MEMBERS.—Under its by-laws, the Authority may conduct its operations under such procedures as it considers appropriate, except that an affirmative vote of a majority of the members of the Authority shall be required in order for the Authority to—

(1) approve or disapprove a financial plan and budget as described by subtitle C;

(2) implement recommendations on financial stability and management responsibility under section 226;

(3) take any action under authority of section 202(b)(3)(B)(i); or

(4) initiate the establishment of a new workers' compensation system for the Postal Service in accordance with section 311.

SEC. 205. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—The Authority shall have an Executive Director who shall be appointed by the Chair with the consent of the Authority. The Executive Director shall be paid at a rate determined by the Authority, except that such rate may not exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) STAFF.—With the approval of the Authority, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate, except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director. Personnel appointed under this subsection shall serve at the pleasure of the Executive Director.

(c) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Executive Director and staff of the Authority may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chair, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of such department or agency to the Authority to assist it in carrying out its duties under this title.

SEC. 206. FUNDING.

(a) IN GENERAL.—There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Authority. In requesting an appropriation under this section for a fiscal year, the Authority shall prepare and submit to the Congress under section 2009 of title 39, United States Code, a budget of the Authority's expenses, including expenses for facilities, supplies, compensation, and employee benefits not to exceed $10,000,000. In years in which a control period commences, the Authority shall submit a budget within 30 days of the appointment of the members of the Authority.

(b) AMENDMENT TO SECTION 2009.—Section 2009 is amended in the next to last sentence—

(1) by striking ", and (3)" and inserting ", (3)"; and

(2) by striking the period and inserting ", and (4) the Postal Service Financial Responsibility and Management Assistance Authority requests to be appropriated, out of the Postal Service Fund, under section 206 of the Postal Reform Act of 2011.".

Subtitle B—Powers of the Authority

SEC. 211. POWERS.

(a) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Authority may, if authorized by the Authority, take any action which the Authority is authorized by this section to take.

(b) OBTAINING OFFICIAL DATA FROM THE POSTAL SERVICE.—Notwithstanding any other provision of law, the Authority may secure copies of such records, documents, information, or data from any entity of the Postal Service necessary to enable the Authority to carry out its responsibilities under this title. At the request of the Authority, the Authority shall be granted direct access to such information systems, records, documents, information, or data as will enable the Authority to carry out its responsibilities under this title. The head of the relevant entity of the Postal Service shall provide the Authority with such information and assistance (including granting the Authority direct access to automated or other information systems) as the Authority requires under this subsection.

(c) GIFTS, BEQUESTS, AND DEVISES.—The Authority may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Authority. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in such account as the Authority may establish and shall be available for disbursement upon order of the Chair.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Authority, the Administrator of General Services may provide to the Authority, on a reimbursable basis, the administrative support services necessary for the Authority to carry out its responsibilities under this title.

(e) AUTHORITY TO ENTER INTO CONTRACTS.—The Executive Director may enter into such contracts as the Executive Director considers appropriate (subject to the approval of the Chair) to carry out the Authority's responsibilities under this title.

(f) CIVIL ACTIONS TO ENFORCE POWERS.—The Authority may seek judicial enforcement of its authority to carry out its responsibilities under this title.

(g) PENALTIES.—

(1) ADMINISTRATIVE DISCIPLINE.—Any officer or employee of the Postal Service who, by action or inaction, fails to comply with any directive or other order of the Authority under section 226(c) shall be subject to appropriate administrative discipline, including suspension from duty without pay or removal from office, by order of either the Postmaster General or the Authority.

(2) REPORTING REQUIREMENT.—Whenever an officer or employee of the Postal Service takes or fails to take any action which is noncompliant with any directive or other order of the Authority under section 226(c), the Postmaster General shall immediately report to the Authority all pertinent facts, together with a statement of any actions taken by the Postmaster General or proposed by the Postmaster General to be taken under paragraph (1).

(h) SENSE OF CONGRESS.—It is the sense of Congress that, in making determinations that affect prior collective bargaining agreements and prior agreements on workforce reduction, any rightsizing effort within the Postal Service that results in a decrease in the number of postal employees should ensure that such employees can receive their full pensions, are fully compensated, and that the collective bargaining agreements and prior agreements on workforce reduction that they entered into with Postal Service management are fully honored.

SEC. 212. EXEMPTION FROM LIABILITY FOR CLAIMS.

The Authority and its members may not be liable for any obligation of or claim against the Postal Service resulting from actions taken to carry out this title.

SEC. 213. TREATMENT OF ACTIONS ARISING UNDER THIS TITLE.

(a) JURISDICTION ESTABLISHED IN UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.—A person (including the Postal Service) adversely affected or aggrieved by an order or decision of the Authority may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia Circuit. The court shall review the order or decision in accordance with section 706 of title 5, United States Code, and chapter 158 and section 2112 of title 28, United States Code. Judicial review shall be limited to the question of whether the Authority acted in excess of its statutory authority, and determinations of the Authority with respect to the scope of its statutory authority shall be upheld if based on a permissible construction of the statutory authority.

(b) PROMPT APPEAL TO THE SUPREME COURT.—Notwithstanding any other provision of law, review by the Supreme Court of the United States of a decision of the Court of Appeals which is issued pursuant to subsection (a) may be had only if the petition for such review is filed within 10 days after the entry of such decision.

(c) TIMING OF RELIEF.—No order of any court granting declaratory or injunctive relief against the Authority, including relief permitting or requiring the obligation, borrowing, or expenditure of funds, shall take effect during the pendency of the action before such court, during the time appeal may be taken, or (if appeal is taken) during the period before the court has entered its final order disposing of such action.

(d) EXPEDITED CONSIDERATION.—It shall be the duty of the United States Court of Appeals for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

SEC. 214. DELIVERY POINT MODERNIZATION.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "delivery point" means a mailbox or other receptacle to which mail is delivered;

(2) the term "primary mode of delivery" means the typical method by which the Postal Service delivers letter mail to the delivery point of a postal patron;

(3) the term "door delivery" means a primary mode of mail delivery whereby mail is placed into a slot or receptacle at or near the postal patron's door or is hand delivered to a postal patron, but does not include curbside or centralized delivery;

(4) the term "centralized delivery" means a primary mode of mail delivery whereby mail receptacles are grouped or clustered at a single location; and

(5) the term "curbside delivery" means a primary mode of mail delivery whereby a mail receptacle is situated at the edge of a roadway or curb.

(b) REDUCTION IN TOTAL NUMBER OF DELIVERY POINTS.—The Authority shall, during the first control period commencing under this title, take such measures as may be necessary and appropriate so that—

(1) in each fiscal year beginning at least 2 years after the commencement date of such first control period—

(A) the total number of delivery points for which door delivery is the primary mode of mail delivery does not exceed 25 percent of the corresponding number for the fiscal year last ending before such commencement date; and

(B) the total annual costs attributable to door delivery, centralized delivery, and curbside delivery combined will be at least $3,500,000,000 less than the corresponding total annual costs for the fiscal year last ending before such commencement date; and

(2) in each fiscal year beginning at least 4 years after the commencement date of such first control period, the total number of delivery points for which door delivery is the primary mode of mail delivery does not exceed 10 percent of the corresponding number for the fiscal year last ending before such commencement date.

In making any decision under this subsection involving the continuation or termination of door delivery with respect to any locality or addresses within a locality, the Authority shall consider rates of poverty, population density, historical value, whether such locality is in a registered historic district (as that term is defined in section 47(c)(3)(B) of the Internal Revenue Code of 1986), whether such address is another place on the National Register of Historic Places, and other appropriate factors.

(c) ORDER OF PRECEDENCE.—In order to carry out subsection (b)—

(1) in making conversions from door delivery to other primary modes of delivery—

(A) conversion shall be to centralized delivery; except

(B) if subparagraph (A) is impractical, conversion shall be to curbside delivery; and

(2) in the case of delivery points established after the commencement date of the first control period under this title—

(A) centralized delivery shall be the primary mode of delivery; except

(B) if subparagraph (A) is impractical, curbside delivery shall be the primary mode of delivery.

(d) WAIVER FOR PHYSICAL HARDSHIP.—The Postal Service shall establish and maintain a waiver program under which, upon application, door delivery may be continued or provided in any case in which—

(1) centralized or curbside delivery would, but for this subsection, otherwise be the primary mode of delivery; and

(2) door delivery is necessary in order to avoid causing significant physical hardship to a postal patron.

(e) CENTRALIZED DELIVERY PLACEMENT.—It is the sense of the Congress that the Postal Service should negotiate with State and local governments, businesses, local associations, and property owners to place centralized delivery units in locations that maximize delivery efficiency, ease of use for postal patrons, and respect for private property rights.

(f) VOUCHER PROGRAM.—

(1) IN GENERAL.—The Postal Service may, in accordance with such standards and procedures as the Postal Service shall by regulation prescribe, provide for a voucher program under which—

(A) upon application, the Postal Service may defray all or any portion of the costs associated with conversion from door delivery under this section which would otherwise be borne by postal patrons; and

(B) the Postal Service Competitive Products Fund is made available for that purpose.

(2) CONFORMING AMENDMENT.—Section 2011(a)(2) is amended—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(C) vouchers under the program described in section 214(f)(1) of the Postal Reform Act of 2011.".

(g) AUDITS.—

(1) IN GENERAL.—The Inspector General of the United States Postal Service—

(A) shall conduct an annual audit to determine whether the Postal Service is in compliance with the requirements of subsection (b); and

(B) shall make such recommendations as the Inspector General considers appropriate to improve the administration of such subsection.

(2) SUBMISSION.—The audit and recommendations under paragraph (1) shall be submitted by the Inspector General to—

(A) the Committee on Oversight and Government Reform of the House of Representatives; and

(B) the Committee on Homeland Security and Governmental Affairs of the Senate.

(3) INFORMATION.—Upon request, the Postal Service shall furnish such information as the Inspector General may require in order to carry out this subsection.

(h) SAVINGS REPORT.—

(1) IN GENERAL.—In the event that a reduction in door delivery points is required under this section, the Authority shall submit a report to Congress, not later than 1 year after the date on which such reductions commence, describing the cost savings realized to the date of such submission and the estimated additional cost savings anticipated as a result of such reductions occurring after such submission. The report shall include—

(A) the measures taken to achieve the realized savings and the assumptions and methodologies used to compute the estimated cost savings; and

(B) information with respect to what additional measures might be necessary to achieve the cost savings required under this section.

(2) REDUCTION LIMITATION.—Notwithstanding any other provision of this Act, if the Authority determines that the measures described pursuant to subparagraphs (A) and (B) of paragraph (1) are not feasible, not cost effective, or otherwise detrimental to the mail delivery policy of the Postal Service, the Authority shall submit a report to Congress stating any legislative changes recommended for door delivery modernization procedures under this section, including increasing flexibility of this section's requirements or the postponement of further conversion.

Subtitle C—Establishment and Enforcement of Financial Plan and Budget for the Postal Service

SEC. 221. DEVELOPMENT OF FINANCIAL PLAN AND BUDGET FOR THE POSTAL SERVICE.

(a) DEVELOPMENT OF FINANCIAL PLAN AND BUDGET.—For each fiscal year for which the Postal Service is in a control period, the Postmaster General shall develop and submit to the Authority a financial plan and budget for the Postal Service in accordance with this section.

(b) CONTENTS OF FINANCIAL PLAN AND BUDGET.—A financial plan and budget for the Postal Service for a fiscal year shall specify the budget for the Postal Service as required by section 2009 of title 39, United States Code, for the applicable fiscal year and the next 3 fiscal years, in accordance with the following requirements:

(1) The financial plan and budget shall meet the requirements described in subsection (c) to promote the financial stability of the Postal Service.

(2) The financial plan and budget shall—

(A) include the Postal Service's annual budget program (under section 2009 of title 39, United States Code) and the Postal Service's plan commonly referred to as its "Integrated Financial Plan";

(B) describe lump-sum expenditures by all categories traditionally used by the Postal Service;

(C) describe capital expenditures (together with a schedule of projected capital commitments and cash outlays of the Postal Service and proposed sources of funding);

(D) contain estimates of overall debt (both outstanding and anticipated to be issued); and

(E) contain cash flow and liquidity forecasts for the Postal Service at such intervals as the Authority may require.

(3) The financial plan and budget shall include a statement describing methods of estimations and significant assumptions.

(4) The financial plan and budget shall include any other provisions and shall meet such other criteria as the Authority considers appropriate to meet the purposes of this title, including provisions for—

(A) changes in personnel policies and levels for each component of the Postal Service; and

(B) management initiatives to promote productivity, improvement in the delivery of services, or cost savings.

(c) REQUIREMENTS TO PROMOTE FINANCIAL STABILITY.—

(1) IN GENERAL.—The requirements to promote the financial stability of the Postal Service applicable to the financial plan and budget for a fiscal year are as follows:

(A) In each fiscal year (following the first full fiscal year) in a control period, budgeted expenditures of the Postal Service for the fiscal year involved may not exceed budgeted revenues of the Postal Service for the fiscal year involved.

(B) In each fiscal year in a control period, the Postal Service shall make continuous, substantial progress towards long-term fiscal solvency and shall have substantially greater net income than in the previous fiscal year.

(C) The Postal Service shall provide for the orderly liquidation of any supplementary debt under section 222.

(D) The financial plan and budget shall assure the continuing long-term financial stability of the Postal Service, as indicated by factors such as the efficient management of the Postal Service's workforce and the effective provision of services by the Postal Service.

(2) APPLICATION OF SOUND BUDGETARY PRACTICES.—In meeting the requirement described in paragraph (1) with respect to a financial plan and budget for a fiscal year, the Postal Service shall apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or a combination of such practices.

(3) ASSUMPTIONS BASED ON CURRENT LAW.—In meeting the requirements described in paragraph (1) with respect to a financial plan and budget for a fiscal year, the Postal Service shall base estimates of revenues and expenditures on Federal law as in effect at the time of the preparation of such financial plan and budget.

SEC. 222. SUPPLEMENTARY BORROWING AUTHORITY DURING A CONTROL PERIOD.

(a) IN GENERAL.—Upon the commencement of a control period, subject to the approval of the Authority, the Postal Service is authorized to borrow money and issue and sell such obligations as may be necessary to carry out the purposes of this title, to the same extent, in the same manner, and subject to the same terms and conditions as if the maximum amount allowable under the provisions of section 2005(a)(2) of title 39, United States Code, for the fiscal year involved were equal to the maximum amount which (but for this section) would otherwise be allowable under such provisions, increased by $10,000,000,000. The authorization to issue obligations under this section shall extend for a period of not more than 10 years beginning on the date of commencement of a control period, as described in section 202(b). At the end of such a 10-year period, the Postal Service shall dispose of real property of the Postal Service generating sufficient proceeds to repay any outstanding obligation incurred under this subsection in its entirety.

(b) EXCLUSION.—The last sentence of section 2005(a)(1) of title 39, United States Code, shall not apply with respect to any amounts borrowed or obligations issued or sold under authority of this section (which, but for subsection (a), would not otherwise have been allowable).

(c) DEPOSIT.—Any amounts received under this section shall be deposited in the Postal Service Fund.

(d) COLLATERAL.—For the purposes of funds acquired under subsection (a), the Postal Service shall provide an appropriate level of collateral in the form of pledged Postal Service property assets. For each fiscal year in which there remain funds made available to the Postal Service under subsection (a), the Postal Service shall dispose of real property equal to an amount that is at least 10 percent of the total funds obligated by the Postal Service under subsection (a), and the proceeds of such disposal shall be used to repay any outstanding obligation made by the Postal Service under subsection (a) in its entirety.

SEC. 223. PROCESS FOR SUBMISSION AND APPROVAL OF FINANCIAL PLAN AND BUDGET.

(a) IN GENERAL.—For each fiscal year for which the Postal Service is in a control period, the Postmaster General shall submit to the Authority—

(1) by February 1 before the start of such fiscal year, a preliminary financial plan and budget under section 221 for such fiscal year; and

(2) by August 1 before the start of such fiscal year, a final financial plan and budget under section 221 for such fiscal year.

(b) REVIEW BY AUTHORITY.—Upon receipt of a financial plan and budget under subsection (a) (whether preliminary or final), the Authority shall promptly review such financial plan and budget. In conducting the review, the Authority may request any additional information it considers necessary and appropriate to carry out its duties under this subtitle.

(c) APPROVAL OF POSTMASTER GENERAL'S FINANCIAL PLAN AND BUDGET.—

(1) IN GENERAL.—If the Authority determines that the final financial plan and budget for the fiscal year submitted by the Postmaster General under subsection (a) meets the requirements of section 221—

(A) the Authority shall approve the financial plan and budget and shall provide the Postmaster General, the President, and Congress with a notice certifying its approval; and

(B) the Postmaster General shall promptly submit the annual budget program to the Office of Management and Budget pursuant to section 2009 of title 39, United States Code.

(2) DEEMED APPROVAL AFTER 30 DAYS.—

(A) IN GENERAL.—If the Authority has not provided the Postmaster General, the President, and Congress with a notice certifying approval under paragraph (1)(A) or a statement of disapproval under subsection (d) before the expiration of the 30-day period which begins on the date the Authority receives the financial plan and budget from the Postmaster General under subsection (a), the Authority shall be deemed to have approved the financial plan and budget and to have provided the Postmaster General, the President, and Congress with the notice certifying approval under paragraph (1)(A).

(B) EXPLANATION OF FAILURE TO RESPOND.—If subparagraph (A) applies with respect to a financial plan and budget, the Authority shall provide the Postmaster General, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 30-day period described in such subparagraph.

(d) DISAPPROVAL OF POSTMASTER GENERAL'S BUDGET.—If the Authority determines that the final financial plan and budget for the fiscal year submitted by the Postmaster General under subsection (a) does not meet the requirements applicable under section 221, the Authority shall disapprove the financial plan and budget, and shall provide the Postmaster General, the President, and Congress with a statement containing—

(1) the reasons for such disapproval;

(2) the amount of any shortfall in the budget or financial plan; and

(3) any recommendations for revisions to the budget the Authority considers appropriate to ensure that the budget is consistent with the financial plan and budget.

(e) AUTHORITY REVIEW OF POSTMASTER GENERAL'S REVISED FINAL FINANCIAL PLAN AND BUDGET.—

(1) SUBMISSION OF POSTMASTER GENERAL'S REVISED FINAL FINANCIAL PLAN AND BUDGET.—Not later than 15 days after receiving the statement from the Authority under subsection (d), the Postmaster General shall promptly adopt a revised final financial plan and budget for the fiscal year which addresses the reasons for the Authority's disapproval cited in the statement, and shall submit such financial plan and budget to the Authority.

(2) APPROVAL OF POSTMASTER GENERAL'S REVISED FINAL FINANCIAL PLAN AND BUDGET.—If, after reviewing the revised final financial plan and budget for a fiscal year submitted by the Postmaster General under paragraph (1) in accordance with the procedures described in this section, the Authority determines that the revised final financial plan and budget meets the requirements applicable under section 221—

(A) the Authority shall approve the financial plan and budget and shall provide the Postmaster General, the President, and Congress with a notice certifying its approval; and

(B) the Postmaster General shall promptly submit the annual budget program to the Office of Management and Budget pursuant to section 2009 of title 39, United States Code.

(3) DISAPPROVAL OF POSTMASTER GENERAL'S REVISED FINAL FINANCIAL PLAN AND BUDGET.—

(A) IN GENERAL.—If, after reviewing the revised final financial plan and budget for a fiscal year submitted by the Postmaster General under paragraph (1) in accordance with the procedures described in this subsection, the Authority determines that the revised final financial plan and budget does not meet the applicable requirements under section 221, the Authority shall—

(i) disapprove the financial plan and budget;

(ii) provide the Postmaster General, the President, and Congress with a statement containing the reasons for such disapproval and describing the amount of any shortfall in the financial plan and budget; and

(iii) approve and recommend a financial plan and budget for the Postal Service which meets the applicable requirements under section 221, and submit such financial plan and budget to the Postmaster General, the President, and Congress.

(B) SUBMISSION TO OMB.—Upon receipt of the recommended financial plan and budget under subparagraph (A)(iii), the Postmaster General shall promptly submit the recommended annual budget program to the Office of Management and Budget pursuant to section 2009 of title 39, United States Code.

(4) DEEMED APPROVAL AFTER 15 DAYS.—

(A) IN GENERAL.—If the Authority has not provided the Postmaster General, the President, and Congress with a notice certifying approval under paragraph (2)(A) or a statement of disapproval under paragraph (3) before the expiration of the 15-day period which begins on the date the Authority receives the revised final financial plan and budget submitted by the Postmaster General under paragraph (1), the Authority shall be deemed to have approved the revised final financial plan and budget and to have provided the Postmaster General, the President, and Congress with the notice certifying approval described in paragraph (2)(A).

(B) EXPLANATION OF FAILURE TO RESPOND.—If subparagraph (A) applies with respect to a financial plan and budget, the Authority shall provide the Postmaster General, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 15-day period described in such subparagraph.

(f) DEADLINE FOR TRANSMISSION OF FINANCIAL PLAN AND BUDGET BY AUTHORITY.—Notwithstanding any other provision of this section, not later than September 30th before each fiscal year which is in a control period, the Authority shall—

(1) provide Congress with a notice certifying its approval of the Postmaster General's initial financial plan and budget for the fiscal year under subsection (c);

(2) provide Congress with a notice certifying its approval of the Postmaster General's revised final financial plan and budget for the fiscal year under subsection (e)(2); or

(3) submit to Congress an approved and recommended financial plan and budget of the Authority for the Postal Service for the fiscal year under subsection (e)(3)(A)(iii).

(g) REVISIONS TO FINANCIAL PLAN AND BUDGET.—

(1) PERMITTING POSTMASTER GENERAL TO SUBMIT REVISIONS.—The Postmaster General may submit proposed revisions to the financial plan and budget for a control period to the Authority at any time during the year.

(2) PROCESS FOR REVIEW, APPROVAL, DISAPPROVAL, AND POSTMASTER GENERAL ACTION.—Except as provided in paragraph (3), the procedures described in subsections (b), (c), (d), and (e) shall apply with respect to a proposed revision to a financial plan and budget in the same manner as such procedures apply with respect to the original financial plan and budget.

(3) EXCEPTION FOR REVISIONS NOT AFFECTING SPENDING.—To the extent that a proposed revision to a financial plan and budget adopted by the Postmaster General pursuant to this subsection does not increase the amount of spending with respect to any account of the Postal Service, the revision shall become effective upon the Authority's approval of such revision.

SEC. 224. RESPONSIBILITIES OF THE AUTHORITY.

(a) IN GENERAL.—The Authority shall direct the exercise of the powers of the Postal Service, including—

(1) determining its overall strategies (both long-term and short-term);

(2) determining its organizational structure, particularly for senior management at the level of vice president and higher;

(3) hiring, monitoring, compensating, and, when necessary, replacing senior management at the level of vice president and higher, as well as ensuring adequate succession planning for these positions;

(4) approving major policies, particularly those that have an important effect on the Postal Service's financial position and the provision of universal postal service;

(5) approving corporate budgets, financial and capital plans, operational and service performance standards and targets, human resources strategies, collective bargaining strategies, negotiation parameters, and collective bargaining agreements, and the compensation structure for nonbargaining employees;

(6) approving substantial capital projects and any substantial disposition of capital assets, such as surplus property;

(7) approving changes in rates and classifications, new products and services, policy regarding other substantial matters before the Postal Regulatory Commission, and any appeals of its decisions or orders to the Federal courts;

(8) approving the Postal Service Annual Report, Annual Comprehensive Statement, and strategic plans, performance plans, and performance program reports under chapter 28 of title 39, United States Code;

(9) formulating and communicating organizational policy and positions on legislative and other public policy matters to Congress and the public;

(10) ensuring organizational responsiveness to oversight by Congress, the Postal Regulatory Commission, the Treasury of the United States, and other audit entities;

(11) ensuring adequate internal controls and selecting, monitoring, and compensating an independent public accounting firm to conduct an annual audit of the Postal Service; and

(12) carrying out any responsibility, not otherwise listed in this subsection, that was the responsibility of the Board of Governors at any time during the 5-year period ending on the date of the enactment of this Act.

(b) REVIEW OF POSTAL SERVICE PROPOSALS.—

(1) SUBMISSION OF POSTAL SERVICE PROPOSALS TO THE AUTHORITY.—During a control period, the Postmaster General shall submit to the Authority any proposal that has a substantial effect on any item listed in subsection (a).

(2) PROMPT REVIEW BY AUTHORITY.—Upon receipt of a proposal from the Postmaster General under paragraph (1), the Authority shall promptly review the proposal to determine whether it is consistent with the applicable financial plan and budget approved under this title.

(3) ACTIONS BY AUTHORITY.—

(A) APPROVAL.—If the Authority determines that a proposal is consistent with the applicable financial plan and budget, the Authority shall notify the Postmaster General that it approves the proposal.

(B) FINDING OF INCONSISTENCY.—If the Authority determines that a proposal is significantly inconsistent with the applicable financial plan and budget, the Authority shall—

(i) notify the Postmaster General of its finding;

(ii) provide the Postmaster General with an explanation of the reasons for its finding; and

(iii) to the extent the Authority considers appropriate, provide the Postmaster General with recommendations for modifications to the proposal.

(4) DEEMED APPROVAL.—If the Authority does not notify the Postmaster General that it approves or disapproves a proposal submitted under this subsection during the 7-day period which begins on the date the Postmaster General submits the proposal to the Authority, the Authority shall be deemed to have approved the proposal in accordance with paragraph (3)(A). At the option of the Authority, the previous sentence shall be applied as if the reference in such sentence to "7-day period" were a reference to "14-day period" if, during the 7-day period referred to in the preceding sentence, the Authority so notifies the Postmaster General.

(c) EFFECT OF APPROVED FINANCIAL PLAN AND BUDGET ON CONTRACTS AND LEASES.—

(1) MANDATORY PRIOR APPROVAL FOR CERTAIN CONTRACTS AND LEASES.—

(A) IN GENERAL.—In the case of a contract or lease described in subparagraph (B) which is proposed to be entered into, renewed, modified, or extended by the Postal Service during a control period, the Postmaster General (or the appropriate officer or agent of the Postal Service) shall submit the proposed contract or lease to the Authority. The Authority shall review each contract or lease submitted under this subparagraph, and the Postmaster General (or the appropriate officer or agent of the Postal Service) may not enter into the contract or lease unless the Authority determines that the proposed contract or lease is consistent with the financial plan and budget for the fiscal year.

(B) CONTRACTS AND LEASES DESCRIBED.—A contract or lease described in this subparagraph is—

(i) a labor contract entered into through collective bargaining; or

(ii) such other type of contract or lease as the Authority may specify for purposes of this subparagraph.

(2) AUTHORITY TO REVIEW OTHER CONTRACTS AFTER EXECUTION.—

(A) IN GENERAL.—In addition to the prior approval of certain contracts and leases, the Postal Service shall submit to the Authority—

(i) any Level-Two Post Career Executive Service employee contract that is in effect during a control period; and

(ii) any collective bargaining agreement entered into by the Postal Service that is in effect during a control period.

Any such contract or agreement shall be submitted to the Authority upon the commencement of a control period and at such other times as the Authority may require.

(B) REVIEW BY AUTHORITY.—The Authority shall review each contract submitted under subparagraph (A) to determine if the contract is consistent with the financial plan and budget for the fiscal year. If the Authority determines that the contract is not consistent with the financial plan and budget, the Authority shall take such actions as are within the Authority's powers to revise the contract.

SEC. 225. EFFECT OF FINDING NONCOMPLIANCE WITH FINANCIAL PLAN AND BUDGET.

(a) SUBMISSION OF REPORTS.—Not later than 30 days after the expiration of each quarter of each fiscal year beginning in a control period, the Postmaster General shall submit reports to the Authority describing the actual revenues obtained and expenditures made by the Postal Service during the quarter with its cash flows during the quarter, and comparing such actual revenues, expenditures, and cash flows with the most recent projections for these items.

(b) ADDITIONAL INFORMATION.—If the Authority determines, based on reports submitted by the Postmaster General under subsection (a), independent audits, or such other information as the Authority may obtain, that the revenues or expenditures of the Postal Service during a control period are not consistent with the financial plan and budget for the year, the Authority shall require the Postmaster General to provide such additional information as the Authority determines to be necessary to explain the inconsistency.

(c) CERTIFICATION OF VARIANCE.—

(1) IN GENERAL.—After requiring the Postmaster General to provide additional information under subsection (b), the Authority shall certify to the Postmaster General, the President, the Secretary of the Treasury, and Congress that the Postal Service is at variance with the financial plan and budget unless—

(A) the additional information provides an explanation for the inconsistency which the Authority finds reasonable and appropriate; or

(B)(i) the Postal Service adopts or implements remedial action (including revising the financial plan and budget pursuant to section 223(g)) to correct the inconsistency which the Authority finds reasonable and appropriate, taking into account the terms of the financial plan and budget; and

(ii) the Postmaster General agrees to submit the reports described in subsection (a) on a monthly basis for such period as the Authority may require.

(2) SPECIAL RULE FOR INCONSISTENCIES ATTRIBUTABLE TO ACTS OF CONGRESS.—

(A) DETERMINATION BY AUTHORITY.—If the Authority determines that the revenues or expenditures of the Postal Service during a control period are not consistent with the financial plan and budget for the year as approved by the Authority under section 223 as a result of the terms and conditions of any law enacted by Congress which affects the Postal Service, the Authority shall so notify the Postmaster General.

(B) CERTIFICATION.—In the case of an inconsistency described in subparagraph (A), the Authority shall certify to the Postmaster General, the President, the Secretary of the Treasury, and Congress that the Postal Service is at variance with the financial plan and budget unless the Postal Service adopts or implements remedial action (including revising the financial plan and budget pursuant to section 202(e)) to correct the inconsistency which the Authority finds reasonable and appropriate, taking into account the terms of the financial plan and budget.

(d) EFFECT OF CERTIFICATION.—If the Authority certifies to the Secretary of the Treasury that a variance exists, the Authority or the Secretary may withhold access by the Postal Service to additional supplementary debt authorized by this title.

SEC. 226. RECOMMENDATIONS REGARDING FINANCIAL STABILITY, ETC.

(a) IN GENERAL.—The Authority may at any time submit recommendations to the Postmaster General, the President, and Congress on actions the Postal Service or any other entity of the Federal Government should take to ensure compliance by the Postal Service with a financial plan and budget or to otherwise promote the financial stability, management responsibility, and service delivery efficiency of the Postal Service, including recommendations relating to—

(1) the management of the Postal Service's financial affairs, including cash forecasting, information technology, placing controls on expenditures for personnel, reducing benefit costs, reforming procurement practices, and placing other controls on expenditures;

(2) the relationship between the Postal Service and other entities of the Federal Government;

(3) the structural relationship of subdivisions within the Postal Service;

(4) the modification of existing revenue structures, or the establishment of additional revenue structures;

(5) the establishment of alternatives for meeting obligations to pay for the pensions and retirement benefits of current and future Postal Service retirees;

(6) modifications of services which are the responsibility of and are delivered by the Postal Service;

(7) modifications of the types of services which are delivered by entities other than the Postal Service under alternative service delivery mechanisms;

(8) the effects of Federal Government laws and court orders on the operations of the Postal Service;

(9) the increased use of a personnel system for employees of the Postal Service which is based upon employee performance standards; and

(10) the improvement of personnel training and proficiency, the adjustment of staffing levels, and the improvement of training and performance of management and supervisory personnel.

(b) RESPONSE TO RECOMMENDATIONS FOR ACTIONS WITHIN AUTHORITY OF POSTAL SERVICE.—

(1) IN GENERAL.—In the case of any recommendations submitted under subsection (a) during a control period which are within the authority of the Postal Service to adopt, not later than 90 days after receiving the recommendations, the Postmaster General shall submit a statement to the Authority, the President, and Congress which provides notice as to whether the Postal Service will adopt the recommendations.

(2) IMPLEMENTATION PLAN REQUIRED FOR ADOPTED RECOMMENDATIONS.—If the Postmaster General notifies the Authority and Congress under paragraph (1) that the Postal Service will adopt any of the recommendations submitted under subsection (a), the Postmaster General shall include in the statement a written plan to implement the recommendation which includes—

(A) specific performance measures to determine the extent to which the Postal Service has adopted the recommendation; and

(B) a schedule for auditing the Postal Service's compliance with the plan.

(3) EXPLANATIONS REQUIRED FOR RECOMMENDATIONS NOT ADOPTED.—If the Postmaster General notifies the Authority, the President, and Congress under paragraph (1) that the Postal Service will not adopt any recommendation submitted under subsection (a) which the Postal Service has authority to adopt, the Postmaster General shall include in the statement explanations for the rejection of the recommendations.

(c) IMPLEMENTATION OF REJECTED RECOMMENDATIONS BY AUTHORITY.—

(1) IN GENERAL.—If the Postmaster General notifies the Authority, the President, and Congress under subsection (b)(1) that the Postal Service will not adopt any recommendation submitted under subsection (a) which the Postal Service has authority to adopt, the Authority may by a majority vote of its members take such action concerning the recommendation as it deems appropriate, after consulting with the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

(2) EFFECTIVE DATE.—This subsection shall apply with respect to recommendations of the Authority made after the expiration of the 6-month period which begins on the date of the commencement of a control period.

SEC. 227. SPECIAL RULES FOR FISCAL YEAR IN WHICH CONTROL PERIOD COMMENCES.

(a) ADOPTION OF TRANSITION BUDGET.—Notwithstanding any provision of section 223 to the contrary, in the case of a fiscal year in which a control period commences, the following rules shall apply:

(1) Not later than 45 days after the appointment of its members, the Authority shall review the proposed Integrated Financial Plan for the Postal Service for such fiscal year and shall submit any recommendations for modifications to such plan to promote the financial stability of the Postal Service to the Postmaster General, the President, and Congress.

(2) Not later than 15 days after receiving the recommendations of the Authority submitted under paragraph (1), the Postmaster General shall promptly adopt a revised budget for the fiscal year (in this section referred to as the "transition budget"), and shall submit the transition budget to the Authority, the President, and Congress.

(3) Not later than 15 days after receiving the transition budget from the Postmaster General under paragraph (2), the Authority shall submit a report to the Postmaster General, the President, and Congress analyzing the budget (taking into account any items or provisions disapproved by the Postmaster General) and shall include in the report such recommendations for revisions to the transition budget as the Authority considers appropriate to promote the financial stability of the Postal Service during the fiscal year.

(b) FINANCIAL PLAN AND BUDGET.—

(1) DEADLINE FOR SUBMISSION.—For purposes of section 223, the Postmaster General shall submit the financial plan and budget for the applicable fiscal year as soon as practicable after the commencement of a control period (in accordance with guidelines established by the Authority).

(2) ADOPTION BY POSTMASTER GENERAL.—In accordance with the procedures applicable under section 223 (including procedures providing for review by the Authority) the Postmaster General shall adopt the financial plan and budget for the applicable fiscal year (including the transition budget incorporated in the financial plan and budget).

(3) TRANSITION BUDGET AS TEMPORARY FINANCIAL PLAN AND BUDGET.—Until the approval of the financial plan and budget for the applicable fiscal year by the Authority under this subsection, the transition budget established under subsection (a) shall serve as the financial plan and budget adopted under this subtitle for purposes of this Act (and any provision of law amended by this Act) for the applicable fiscal year.

SEC. 228. ASSISTANCE IN ACHIEVING FINANCIAL STABILITY, ETC.

In addition to any other actions described in this title, the Authority may undertake cooperative efforts to assist the Postal Service in achieving financial stability and management efficiency, including—

(1) assisting the Postal Service in avoiding defaults, eliminating and liquidating deficits, maintaining sound budgetary practices, and avoiding interruptions in the delivery of services;

(2) assisting the Postal Service in improving the delivery of services, the training and effectiveness of personnel of the Postal Service, and the efficiency of management and supervision; and

(3) making recommendations to the President for transmission to Congress on changes to this Act or other Federal laws, or other actions of the Federal Government, which would assist the Postal Service in complying with an approved financial plan and budget under subtitle B.

SEC. 229. OBTAINING REPORTS.

The Authority may require the Postmaster General, the Chief Financial Officer of the Postal Service, and the Inspector General of the Postal Service, to prepare and submit such reports as the Authority considers appropriate to assist it in carrying out its responsibilities under this title, including submitting copies of any reports regarding revenues, expenditures, budgets, costs, plans, operations, estimates, and other financial or budgetary matters of the Postal Service.

SEC. 230. REPORTS AND COMMENTS.

(a) ANNUAL REPORTS TO CONGRESS.—Not later than 30 days after the last day of each fiscal year which is a control year, the Authority shall submit a report to Congress describing—

(1) the progress made by the Postal Service in meeting the objectives of this title during the fiscal year;

(2) the assistance provided by the Authority to the Postal Service in meeting the purposes of this title for the fiscal year; and

(3) any other activities of the Authority during the fiscal year.

(b) REVIEW AND ANALYSIS OF PERFORMANCE AND FINANCIAL ACCOUNTABILITY REPORTS.—The Authority shall review each yearly report prepared and submitted by the Postmaster General to the Postal Regulatory Commission and Congress and shall submit a report to Congress analyzing the completeness and accuracy of such reports.

(c) COMMENTS REGARDING ACTIVITIES OF POSTAL SERVICE.—At any time during a control period, the Authority may submit a report to Congress describing any action taken by the Postal Service (or any failure to act by the Postal Service) which the Authority determines will adversely affect the Postal Service's ability to comply with an approved financial plan and budget under subtitle B or will otherwise have a significant adverse impact on the best interests of the Postal Service.

(d) REPORTS ON EFFECT OF FEDERAL LAWS ON THE POSTAL SERVICE.—At any time during any year, the Authority may submit a report to the Postmaster General, the President, and Congress on the effect of laws enacted by Congress on the financial plan and budget for the year and on the financial stability and management efficiency of the Postal Service in general.

(e) MAKING REPORTS PUBLICLY AVAILABLE.—The Authority shall make any report submitted under this section available to the public, except to the extent that the Authority determines that the report contains confidential material.

Subtitle D—Termination of a Control Period

SEC. 231. TERMINATION OF CONTROL PERIOD, ETC.

(a) IN GENERAL.—After the completion of the requirements for the termination of a control period described in section 202(b)(4), the Authority shall submit a recommendation to Congress requesting the termination of such control period, the dissolution of the Authority, and the reinstatement to the Board of Governors (and the individual Governors) of the Postal Service of the authorities and responsibilities referred to in section 202(b)(2)(A).

(b) CONGRESSIONAL APPROVAL.—

(1) IN GENERAL.—A control period shall not be terminated unless a joint resolution approving of the recommendation in subsection (a) is enacted, in accordance with section 232, before the earlier of—

(A) the end of the 30-day period beginning on the date on which the Authority transmits the recommendation to Congress under subsection (a); or

(B) the adjournment of the Congress sine die for the session during which such recommendation is transmitted.

(2) DAYS OF SESSION.—For purposes of paragraph (1) and subsections (a) and (c) of section 232, the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of a period.

SEC. 232. CONGRESSIONAL CONSIDERATION OF RECOMMENDATION.

(a) TERMS OF THE RESOLUTION.—For purposes of this subtitle, the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the recommendation referred to in section 231(a) is received by Congress—

(1) the matter after the resolving clause of which is as follows: "That Congress approves the recommendation of the Postal Service Financial Responsibility and Management Assistance Authority, submitted by such Authority on ____.", the blank space being filled in with the appropriate date;

(2) the title of which is as follows: "Joint resolution approving the recommendation of Postal Service Financial Responsibility and Management Assistance Authority."; and

(3) which does not have a preamble.

(b) REFERRAL.—A resolution described in subsection (a) that is introduced in the House of Representatives or the Senate shall be referred to the appropriate committees of the House of Representatives or the Senate, respectively.

(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the Authority transmits its recommendation to Congress under section 231(a) such committee shall, at the end of such period, be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION.—

(1) IN GENERAL.—On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. A Member may make the motion only on the day after the calendar day on which the Member announces to the House concerned the Member's intention to make the motion, except that, in the case of the House of Representatives, the motion may be made without such prior announcement if the motion is made by direction of the committee to which the resolution was referred. All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in

the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION BY OTHER HOUSE.—

(1) IN GENERAL.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to a resolution described in subsection (a) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) DISPOSITION OF A RESOLUTION.—Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

TITLE III—POSTAL SERVICE WORKFORCE

Subtitle A—General Provisions

SEC. 301. MODIFICATIONS RELATING TO DETERMINATION OF PAY COMPARABILITY.

(a) POSTAL POLICY.—The first sentence of section 101(c) is amended—

(1) by inserting “total” before “rates and types of compensation”; and

(2) by inserting “entire” before “private sector”.

(b) EMPLOYMENT POLICY.—The second sentence of section 1003(a) is amended—

(1) by inserting “total” before “compensation and benefits” each place it appears; and

(2) by inserting “entire” before “private sector”.

(c) CONSIDERATIONS.—For purposes of the amendments made by this section, any determination of “total rates and types of compensation” or “total compensation and benefits” shall, at a minimum, take into account pay, health benefits, retirement benefits, life insurance benefits, leave, holidays, and continuity and stability of employment.

SEC. 302. LIMITATION ON POSTAL CONTRIBUTIONS UNDER FEGLI AND FEHBP.

Section 1003 is amended by adding at the end the following:

"(e)(1) At least 1 month before the start of each fiscal year as described in paragraph (2), the Postmaster General shall transmit to the Postal Regulatory Commission certification (together with such supporting documentation as the Postal Regulatory Commission may require) that contributions of the Postal Service for such fiscal year will not exceed—

"(A) in the case of life insurance under chapter 87 of title 5, the Government contributions determined under section 8708 of such title; and

"(B) in the case of health insurance under chapter 89 of title 5, the Government contributions determined under 8906 of such title.

"(2) This subsection applies with respect to—

"(A) except as provided in subparagraph (B), each fiscal year beginning after September 30, 2013; and

"(B) in the case of officers and employees of the Postal Service covered by a collective bargaining agreement which is in effect on the date of the enactment of this subsection—

"(i) each fiscal year beginning after the expiration date of such agreement, including

"(ii) for the fiscal year in which such expiration date occurs, any portion of such fiscal year remaining after such expiration date.

"(3)(A) If, after reasonable notice and opportunity for hearing is afforded to the Postal Service, the Postal Regulatory Commission finds that the contributions of the Postal Service for a fiscal year will exceed or are exceeding the limitation specified in subparagraph (A) or (B) of paragraph (1), the Commission shall order that the Postal Service take such action as the Commission considers necessary to achieve full and immediate compliance with the applicable limitation or limitations.

"(B) Sections 3663 and 3664 shall apply with respect to any order issued by the Postal Regulatory Commission under subparagraph (A).

"(C) Nothing in this paragraph shall be considered to permit the issuance of an order requiring reduction of contributions below the level specified by the provision of law cited in subparagraph (A) or (B) of paragraph (1), as applicable.".

SEC. 303. REPEAL OF PROVISION RELATING TO OVERALL VALUE OF FRINGE BENEFITS.

The last sentence of section 1005(f) is repealed.

SEC. 304. APPLICABILITY OF REDUCTION-IN-FORCE PROCEDURES.

Section 1206 is amended by adding at the end the following:

"(d) Collective-bargaining agreements between the Postal Service and bargaining representatives recognized under section 1203, ratified after the date of enactment of this subsection, shall contain no provision restricting the applicability of reduction-in-force procedures under title 5 with respect to members of the applicable bargaining unit.

"(e) Any collective-bargaining agreement between the Postal Service and the bargaining representatives recognized under section 1203 ratified before the date of enactment of this Act that contain any provision violating subsection (d) shall be renegotiated with a new collective-bargaining agreement to be ratified or imposed through an arbitration decision under section 1207 within 9 months after such date of enactment.

"(f)(1) If a collective-bargaining agreement between the Postal Service and bargaining representatives recognized under section 1203, ratified after the date of enactment of this subsection, includes reduction-in-force procedures which can be applied in lieu of reduction-in-force procedures under title 5, the Postal Service may, in its discretion, apply with respect to members of the applicable bargaining unit—

"(A) the alternative procedures (or, if 2 or more are agreed to, 1 of the alternative procedures); or

"(B) the reduction-in-force procedures under title 5.

"(2) In no event may, if procedures for the resolution of a dispute or impasse arising in the negotiation of a collective-bargaining agreement (whether through binding arbitration or otherwise) are invoked under this chapter, the award or other resolution reached under such procedures provide for the elimination of, or the substitution of any alternative procedures in lieu of, reduction-in-force procedures under title 5.".

SEC. 305. MODIFICATIONS RELATING TO COLLECTIVE BARGAINING.

Section 1207 is amended by striking subsections (c) and (d) and inserting the following:

"(c)(1) If no agreement is reached within 30 days after the appointment of a mediator under subsection (b), or if the parties decide upon arbitration before the expiration of the 30-day period, an arbitration board shall be established consisting of 1 member selected by the Postal Service (from the list under paragraph (2)), 1 member selected by the bargaining representative of the employees (from the list under paragraph (2)), and the mediator appointed under subsection (b).

"(2) Upon receiving a request from either of the parties referred to in paragraph (1), the Director of the Federal Mediation and Conciliation Service shall provide a list of not less than 9 individuals who are well qualified to serve as neutral arbitrators. Each person listed shall be an arbitrator of nationwide reputation and professional nature, a member of the National Academy of Arbitrators, and an individual whom the Director has determined to be willing and available to serve. If, within 7 days after the list is provided, either of the parties has not selected an individual from the list, the Director shall make the selection within 3 days.

"(3) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may elect. The hearing shall be concluded no more than 40 days after the arbitration board is established.

"(4) No more than 7 days after the hearing is concluded, each party shall submit to the arbitration board 2 offer packages, each of which packages shall specify the terms of a proposed final agreement.

"(5) If no agreement is reached within 7 days after the last day date for the submission of an offer package under paragraph (4), each party shall submit to the arbitration board a single final offer package specifying the terms of a proposed final agreement.

"(6) No later than 3 days after the submission of the final offer packages under paragraph (5), the arbitration board shall select 1 of those packages as its tentative award, subject to paragraph (7).

"(7)(A) The arbitration board may not select a final offer package under paragraph (6) unless it satisfies each of the following:

"(i) The offer complies with the requirements of sections 101(c) and 1003(a).

"(ii) The offer takes into account the current financial condition of the Postal Service.

"(iii) The offer takes into account the long-term financial condition of the Postal Service.

"(B)(i) If the board unanimously determines, based on clear and convincing evidence presented during the hearing under paragraph (3), that neither final offer package satisfies the conditions set forth in subparagraph (A), the board shall by majority vote—

"(I) select the package that best meets such conditions; and

"(II) modify the package so selected to the minimum extent necessary to satisfy such conditions.

"(ii) If modification (as described in subparagraph (B)(i)(II)) is necessary, the board shall have an additional 7 days to render its tentative award under this subparagraph.

"(8) The parties may negotiate a substitute award to replace the tentative award selected under paragraph (6) or rendered under paragraph (7) (as the case may be). If no agreement on a substitute award is reached within 10 days after the date on which the tentative award is so selected or rendered, the tentative award shall become final.

"(9) The arbitration board shall review any substitute award negotiated under paragraph (8) to determine if it satisfies the conditions set forth in paragraph (7)(A). If the arbitration board, by a unanimous vote taken within 3 days after the date on which the agreement on the substitute award is reached under paragraph (8), determines that the substitute award does not satisfy such conditions, the tentative award shall become final. In the absence of a vote, as described in the preceding sentence, the substitute agreement shall become final.

"(10) If, under paragraph (5), neither party submits a final offer package by the last day allowable under such paragraph, the arbitration board shall develop and issue a final award no later than 20 days after such last day.

"(11) A final award or agreement under this subsection shall be conclusive and binding upon the parties.

"(12) Costs of the arbitration board and mediation shall be shared equally by the Postal Service and the bargaining representative.

"(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach agreement within 90 days after the commencement of collective bargaining, a mediator shall be appointed in accordance with the provisions of subsection (b), unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days after the commencement of collective bargaining, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the provisions of subsection (c).".

SEC. 306. ONE-TIME TRANSFER OF NET SURPLUS POSTAL RETIREMENT CONTRIBUTIONS.

(a) TRANSFER REQUIREMENT.—Not later than 2 weeks after the date of enactment of this Act, there shall be appropriated to the Postal Service Fund, from the Postal Service Federal Employee Retirement System account within the Civil Service Retirement and Disability Fund, an amount equal to the absolute value of the amount computed as of September 30, 2010, under section 8423(b)(1)(B) of title 5, United States Code, less the sum of—

(1) the Postal supplemental liability, calculated as of September 30, 2010, under section 8348(h) of title 5, United States Code; and

(2) any contribution required by section 8423 of such title that the Postal Service has not made during fiscal years 2011 or 2012, as determined by the Office of Personnel Management no later than one week after the date of enactment of this Act

(b) LIMITATIONS ON USE.—The amount transferred to the Postal Service Fund under this section—

(1) may be used for such purposes as the Postal Service considers appropriate; except that

(2) if any amounts so transferred remain in the Postal Service Fund after September 30, 2015, such amounts shall be used—

(A) first, to satisfy any supplemental liability computed under section 8423(b)(1)(B) of title 5, United States Code;

(B) second, to satisfy any supplemental liability computed under section 8348(h) of title 5, United States Code; and

(C) third, to satisfy any obligations of the Postal Service under section 2005 of title 39, United States Code.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Civil Service Retirement and Disability Fund" refers to the fund under section 8348 of title 5, United States Code; and

(2) the term "Postal Service Fund" refers to the fund under section 2003 of title 39, United States Code.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Postal Service should use any funds under subsection (b)(1) for separation incentives for Postal employees.

Subtitle B—Postal Service Workers' Compensation Reform

SEC. 311. POSTAL SERVICE WORKERS' COMPENSATION REFORM.

(a) IN GENERAL.—Effective 12 months after the triggering date of this section (as defined in subsection (e)(2)), section 1005 is amended by striking subsection (c) and inserting the following:

"(c)(1) For purposes of this subsection—

"(A) the term 'postal employee' means an officer or employee of the Postal Service or the former Post Office Department;

"(B) the term 'retirement age' has the meaning given such term under section 216(l)(1) of the Social Security Act; and

"(C) the term 'appropriate committees of Congress' means—

"(i) the Committee on Oversight and Government Reform of the House of Representatives; and

"(ii) the Committee on Homeland Security and Governmental Affairs of the Senate.

"(2) The Postal Service shall design and administer a program for the payment of benefits for the disability or death of an individual resulting from personal injury sustained while in the performance of such individual's duties as a postal employee.

"(3) The program under this subsection—

"(A) shall be designed by the Postal Service in consultation with appropriate employee representatives;

"(B) shall not provide for any amount payable to a disabled postal employee to be augmented on the basis of number of dependents; and

"(C) shall include provisions for automatic transition, upon attainment of retirement age, to benefits involving, coordinated with, or otherwise determined by reference to retirement benefits.".

(b) RECOMMENDATIONS.—Not later than 6 months after the triggering date—

(1) the Office of Personnel Management shall submit to the appropriate committees of Congress recommendations for any legislation or administrative actions which the Office considers necessary to carry out the purposes of this section with respect to any matter within the jurisdiction of the Office, including any amendments which may be necessary with respect to chapter 87 or 89 of title 5, United States Code; and

(2) the Postal Service shall submit to the appropriate committees of Congress recommendations for any legislation which the Postal Service considers necessary to carry out the purposes of this section with respect to any matter within the jurisdiction of the Postal Service.

(c) NOTIFICATION REQUIREMENTS.—Not later than 9 months after the triggering date, the Postal Service shall submit to the appropriate committees of Congress and shall cause to be published in the Federal Register a description of the program proposed by the Postal Service for implementation under section 1005(c) of title 39, United States Code, as amended by subsection (a). Included in the notification provided under the preceding sentence shall be—

(1) a detailed statement of the benefits to be offered and the persons eligible to receive those benefits;

(2) provisions to ensure an orderly transition to the system proposed to be implemented; and

(3) such other information as the Postal Service considers appropriate.

(d) COMMENCEMENT DATE.—The program under section 1005(c) of title 39, United States Code, as amended by this section—

(1) shall begin to operate on such date as the Postmaster General shall determine, except that such date shall be a date occurring—

(A) not earlier than 12 months after the triggering date; and

(B) not later than 24 months after the triggering date; and

(2) shall apply with respect to amounts payable for periods beginning on or after the date on which the program begins to operate, irrespective of date of the disability or death to which such amounts relate.

(e) CONDITION PRECEDENT.—

(1) IN GENERAL.—The preceding provisions of this section shall not become effective until the date on which a Postal Service Financial Responsibility and Management Assistance Authority (established under section 202)—

(A) makes a written determination that conditions warrant their implementation; and

(B) submits such written determination to the Postal Service, the Office of Personnel Management, and the appropriate committees of Congress (within the meaning of the amendment made by subsection (a)).

(2) TRIGGERING DATE.—For purposes of this section, the term "triggering date of this section" or "triggering date" means the date described in paragraph (1).

TITLE IV—POSTAL SERVICE REVENUE

SEC. 401. ADEQUACY, EFFICIENCY, AND FAIRNESS OF POSTAL RATES.

(a) IN GENERAL.—Section 3622(d) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (B) through (E) as subparagraph (D) through (G), respectively; and

(B) by inserting after subparagraph (A) the following:

"(B) subject to the limitation under subparagraph (A), establish postal rates to fulfill the requirement that each market-dominant class, product, and type of mail service (except for an experimental product or service) bear the direct and indirect postal costs attributable to such class, product, or type through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class, product, or type;

"(C) establish postal rates for each group of functionally equivalent agreements between the Postal Service and users of the mail that—

"(i) cover attributable cost; and

"(ii) improve the net financial position of the Postal Service;

for purposes of this subparagraph, a group of functionally equivalent agreements shall consist of all service agreements that are functionally equivalent to each other within the same market-dominant product, but shall not include agreements within an experimental product;"; and

(2) by adding at the end the following:

"(4) PRC STUDY.—

"(A) IN GENERAL.—Within 90 days after the end of the first fiscal year beginning after the date of enactment of the Postal Reform Act of 2011, the Postal Regulatory Commission shall complete a study to determine the quantitative impact of the Postal Service's excess capacity on the direct and indirect postal costs attributable to any class that bears less than 100 percent of its costs attributable (as described in paragraph (1)(B)), according to the most recent annual determination of the Postal Regulatory Commission under section 3653.

"(B) REQUIREMENTS.—The study required under subparagraph (A) shall—

"(i) be conducted pursuant to regulations that the Postal Regulatory Commission shall prescribe within 90 days after the date of enactment of the Postal Reform Act of 2011, taking into account existing regulations for proceedings to improve the quality, accuracy, or completeness of ratemaking information under section 3652(e)(2) in effect on such date; and

"(ii) for any year in which any class of mail bears less than 100 percent of its costs attributable (as described in paragraph (1)(B)), be updated annually by the Postal Service and included in its annual report to the Commission under section 3652, using such methodologies as the Commission shall by regulation prescribe.

"(5) ADDITIONAL RATES.—Starting not earlier than 12 months and not later than 18 months after the date on which the first study described in paragraph (4) is completed, and at least once in each subsequent 12-month period, the Postal Service shall establish postal rates for each loss-making class of mail to eliminate such losses (other than those caused by the Postal Service's excess capacity) by exhausting all unused rate authority as well as maximizing incentives to reduce costs and increase efficiency, subject to the following:

"(A) The term 'loss-making', as used in this paragraph with respect to a class of mail, means a class of mail that bears less than 100 percent of its costs attributable (as described in paragraph (1)(B)), according to the most recent annual determination of the Postal Regulatory Commission under section 3653, adjusted to account for the quantitative effect of excess capacity on the costs attributable of the class (as described in paragraph (1)(C)).

"(B) Unused rate authority shall be annually increased by 2 percent for each class of mail that bears less than 90 percent of its costs attributable (as described in paragraph (1)(B)), according to the most recent annual determination of the Postal Regulatory Commission under section 3653, adjusted to account for the quantitative effect of excess capacity on the costs attributable of the class (as described in paragraph (1)(C)), with such increase in unused rate authority to take effect 30 days after the date that the Commission issues such determination.".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 3622(c)(10) is amended to read as follows:

"(A) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; and".

(c) EXCEPTION.—Section 3622(d) is amended by adding after paragraph (5) (as added by subsection (a)(2)) the following:

"(6) EXCEPTION.—The requirements of paragraph (1)(B) shall not apply to a market-dominant product for which a substantial portion of the product's mail volume consists of inbound international mail with terminal dues rates determined by the Universal Postal Union (and not by bilateral agreements or other arrangements).".

SEC. 402. REPEAL OF RATE PREFERENCES FOR QUALIFIED POLITICAL COMMITTEES.

Subsection (e) of section 3626 is repealed.

SEC. 403. RATE PREFERENCES FOR NONPROFIT ADVERTISING.

(a) PROVISIONS RELATING TO FORMER SECTION 4358(f).—Section 3626(a)(5) is amended by adding at the end the following: "Notwithstanding any other provision of this paragraph, the percentage specified in the preceding sentence shall be increased by an additional 2 percentage points as of the first day of each calendar year beginning at least 3 years after the date of the enactment of the Postal Reform Act of 2011, until such percentage reaches 80 percent.".

(b) PROVISIONS RELATING TO FORMER SECTION 4452 (b) AND (c).—Section 3626(a)(6) is amended by inserting after subparagraph (C) the following (as a flush left sentence):

"Notwithstanding any other provision of this paragraph, the percentage specified in subparagraph (A) shall be increased by an additional 2 percentage points as of the first day of each calendar year beginning at least 3 years after the date of the enactment of the Postal Reform Act of 2011, until such percentage reaches 80 percent.".

SEC. 404. STREAMLINED REVIEW OF QUALIFYING SERVICE AGREEMENTS FOR COMPETITIVE PRODUCTS.

Section 3633 is amended by adding at the end the following:

"(c) STREAMLINED REVIEW.—Within 90 days after the date of the enactment of this subsection, after notice and opportunity for public comment, the Postal Regulatory Commission shall promulgate (and may from time to time thereafter revise) regulations for streamlined after-the-fact review of new agreements between the Postal Service and users of the mail that provide rates not of general applicability for competitive products, and are functionally equivalent to existing agreements that have collectively covered attributable costs and collectively improved the net financial position of the Postal Service. Streamlined review will be concluded within 5 working days after the agreement is filed with the Commission and shall be limited to approval or disapproval of the agreement as a whole based on the Commission's determination of its functional equivalence. Agreements not approved may be resubmitted without prejudice under section 3632(b)(3).".

SEC. 405. SUBMISSION OF SERVICE AGREEMENTS FOR STREAMLINED REVIEW.

Section 3632(b) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following:

"(4) RATES FOR STREAMLINED REVIEW.—In the case of rates not of general applicability for competitive products that the Postmaster General considers eligible for streamlined review under section 3633(c), the Postmaster General shall cause each agreement to be filed with the Postal Regulatory Commission by such date, on or before the effective date of any new rate, as the Postmaster General considered appropriate.".

SEC. 406. TRANSPARENCY AND ACCOUNTABILITY FOR SERVICE AGREEMENTS.

Section 3653 is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) Each annual written determination of the Commission under section 3653 shall include the following written determinations:

"(1) Whether each product covered its costs, and if it did not, the determination shall state that such product is in noncompliance under section 3653(c).

"(2) For each group of functionally equivalent agreements between the Postal Service and users of the mail, whether it fulfilled requirements to—

"(A) cover attributable costs; and

"(B) improve the net financial position of the Postal Service.

"(3) Any group of functionally equivalent agreements (as referred to in subparagraph (B)) not meeting subparagraphs (A) and (B) of paragraph (2) shall be determined to be in noncompliance under this subsection.

"(4) For purposes of this subsection, a group of functionally equivalent agreements (as referred to in paragraph (2)) shall consist of all service agreements that are functionally equivalent to each other within the same market-dominant or competitive product, but shall not include agreements within an experimental product.".

SEC. 407. NONPOSTAL SERVICES.

(a) NONPOSTAL SERVICES.—

(1) IN GENERAL.—Part IV is amended by adding after chapter 36 the following:

"CHAPTER 37—NONPOSTAL SERVICES

“§ 3701. Purpose

“This chapter is intended to enable the Postal Service to increase its net revenues through specific nonpostal products and services that are expressly authorized by this chapter. Postal Service revenues and expenses under this chapter shall be funded through the Postal Service Fund.

“§ 3702. Definitions

“As used in this chapter—

“(1) the term ‘nonpostal services’ is limited to services offered by the Postal Service that are expressly authorized by this chapter and are not postal products or services;

“(2) the term ‘Postal Service advertising program’ means a program, managed by the Postal Service, by which the Postal Service receives revenues from entities which advertise at Postal Service facilities and on Postal Service vehicles;

“(3) the term ‘Postal Service program for State governments’ means a program, managed by the Postal Service, by which the Postal Service receives revenue from State governments (including their agencies) for providing services on their behalf at Postal Service facilities;

“(4) the term ‘attributable costs’ has the same meaning as is given such term in section 3631; and

“(5) the term ‘year’ means a fiscal year.

“§ 3703. Postal Service advertising program

“Notwithstanding any other provision of this title, the Postal Service may establish and manage a program that allows entities to advertise at Postal Service facilities and on Postal Service vehicles. Such a program shall be subject to the following requirements:

“(1) The Postal Service shall at all times ensure advertising it permits is consistent with the integrity of the Postal Service.

“(2) Any advertising program is required to cover a minimum of 200 percent of its attributable costs in each year.

“(3) All advertising expenditures and revenues are subject to annual compliance determination (including remedies for noncompliance) applicable to nonpostal products.

“(4) Total advertising expenditures and revenues must be disclosed in Postal Service annual reports.

“§ 3704. Postal Service program for State governments

“(a) IN GENERAL.—Notwithstanding any other provision of this title, the Postal Service may establish a program to provide services for agencies of State governments within the United States, but only if such services—

“(1) shall provide enhanced value to the public, such as by lowering the cost or raising the quality of such services or by making such services more accessible;

“(2) do not interfere with or detract from the value of postal services, including—

“(A) the cost and efficiency of postal services; and

“(B) access to postal retail service, such as customer waiting time and access to parking; and

“(3) provide a reasonable contribution to the institutional costs of the Postal Service, defined as reimbursement for each service and to each agency covering at least 150 percent of the attributable costs of such service in each year.

“(b) PUBLIC NOTICE.—At least 90 days before offering any services under this section, the Postal Service shall make each agreement with State agencies readily available to the public on its website, including a business plan that describes the specific services to be provided, the enhanced value to the public, terms of reimbursement, the estimated annual reimbursement to the Postal Service, and the estimated percentage of attributable Postal Service costs that will be covered by reimbursement (with documentation to support these estimates). The Postal Service shall solicit public comment for at least 30 days, with comments posted on its website, followed by its written response posted on its website at least 30 days before offering such services.

“(c) APPROVAL REQUIRED.—The Governors of the Postal Service shall approve the provision of services under this section by a recorded vote, with at least ⅔ of its membership voting for approval, with the vote publicly disclosed on the Postal Service website.

“(d) CLASSIFICATION OF SERVICES.—All services for a given agency provided under this section shall be classified as a separate activity subject to the requirements of annual reporting under section 3706. Such reporting shall also include information on the quality of service and related information to demonstrate that it satisfied the requirements of subsection (a). Information provided under this section shall be according to requirements that the Postal Regulatory Commission shall by regulation prescribe.

"(e) DEFINITIONS.—For the purpose of this section—

"(1) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States; and

"(2) the term 'United States', when used in a geographical sense, means the States.

"§ 3705. Postal Service program for other government agencies

"(a) IN GENERAL.—The Postal Service may establish a program to provide property and services for other government agencies within the meaning of section 411, but only if such program provides a reasonable contribution to the institutional costs of the Postal Service, defined as reimbursement by each agency that covers at least 100 percent of the attributable costs of all property and service provided by the Postal Service in a each year to such agency.

"(b) CLASSIFICATION OF SERVICES.—For each agency, all property and services provided by the Postal Service under this section shall be classified as a separate activity subject to the requirements of annual reporting under section 3706. Information provided under this section shall be according to requirements that the Postal Regulatory Commission shall by regulation prescribe.

"§ 3706. Transparency and accountability for nonpostal services

"(a) ANNUAL REPORTS TO THE COMMISSION.—

"(1) IN GENERAL.—The Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (b)) which shall analyze costs, revenues, rates, and quality of service for this chapter, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate compliance with all applicable requirements of this chapter.

"(2) AUDITS.—The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report. The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

"(b) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access, in accordance with such regulations as the Commission shall prescribe, to the working papers and any other supporting matter of the Postal Service and the Inspector General in connection with any information submitted under this section.

"(c) CONTENT AND FORM OF REPORTS.—

"(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating to the report) to be provided by the Postal Service under this section. Such reports shall be included with the annual compliance determination reported under section 3653. In carrying out this subsection, the Commission shall give due consideration to—

"(A) providing the public with timely, adequate information to assess compliance;

"(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

"(C) protecting the confidentiality of information that is commercially sensitive or is exempt from public disclosure under section 552(b) of title 5.

"(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of any interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

"(A) the attribution of costs or revenues to property or services under this chapter has become significantly inaccurate or can be significantly improved;

"(B) the quality of service data provided to the Commission for annual reports under this chapter has become significantly inaccurate or can be significantly improved; or

"(C) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(d) CONFIDENTIAL INFORMATION.—

"(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory

Commission in a nonpublic annex under this section contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

"(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

"(e) ANNUAL COMPLIANCE DETERMINATION.—

"(1) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under subsection (a) for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by any interested party, and an officer of the Commission who shall be required to represent the interests of the general public.

"(2) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under subsection (a) with respect to a year, the Postal Regulatory Commission shall make a written determination as to whether any nonpostal activities during such year were or were not in compliance with applicable provisions of this chapter (or regulations promulgated under this chapter). The Postal Regulatory Commission shall issue a determination of noncompliance if the requirements for coverage of attributable costs are not met. If, with respect to a year, no instance of noncompliance is found to have occurred in such year, the written determination shall be to that effect.

"(3) NONCOMPLIANCE.—If, for a year, a timely written determination of noncompliance is made under this chapter, the Postal Regulatory Commission shall take appropriate action. If the requirements for coverage of attributable costs specified by this chapter are not met, the Commission shall, within 60 days after the determination, prescribe remedial action to restore compliance as soon as practicable, which shall also include the full restoration of revenue shortfalls during the following fiscal year. The Commission may order the Postal Service to discontinue a nonpostal service under section 3703 or 3704 that persistently fails to meet cost coverage requirements.

"(4) ANY DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this chapter, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.".

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of part IV is amended by adding after the item relating to chapter 36 the following:

(b) CONFORMING AMENDMENTS.—

(1) SECTION 404(e).—Section 404(e) is amended by adding at the end the following:

"(6) Nothing in this section shall be considered to prevent the Postal Service from establishing nonpostal products and services that are expressly authorized by chapter 37.".

(2) SECTION 411.—The last sentence of section 411 is amended by striking "including reimbursability" and inserting "including reimbursability within the limitations of chapter 37".

(3) TREATMENT OF EXISTING NONPOSTAL SERVICES.—All nonpostal services continued pursuant to section 404(e) of title 39, United States Code, shall be considered to be expressly authorized by chapter 37 of such title (as added by subsection (a)(1)) and shall be subject to the requirements of such chapter.

SEC. 408. REIMBURSEMENT OF ALASKA BYPASS MAIL COSTS.

(a) COST ESTIMATES BY POSTAL REGULATORY COMMISSION.—Section 3651(b) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) ALASKA BYPASS MAIL COSTS.—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing Alaska bypass mail service under section 5402.".

(b) REIMBURSEMENTS.—

(1) IN GENERAL.—Chapter 54 is amended by adding at the end the following:

"§ 5404. Reimbursement of Alaska bypass mail costs

"(a) IN GENERAL.—The State of Alaska, on an annual basis, shall make a payment to the Postal Service to reimburse the Postal Service for its costs in providing Alaska bypass mail service under section 5402 of this title.

"(b) DATE OF FIRST PAYMENT.—The State of Alaska shall make its first payment under subsection (a) on or before the last day of the first fiscal year of the State of Alaska beginning after the date of enactment of this section.

"(c) PAYMENT AMOUNTS.—

"(1) DETERMINATION OF AMOUNTS.—The amount of a payment under subsection (a) shall be determined based on the most recent cost estimate prepared by the Postal Regulatory Commission under section 3651(b)(2) of this title (in this subsection referred to as the 'cost estimate').

"(2) FIRST PAYMENT.—The first payment under subsection (a) shall be in an amount equal to 20 percent of the cost estimate.

"(3) SUBSEQUENT PAYMENTS.—Each subsequent payment under subsection (a) shall be in an amount equal to a percentage of the cost estimate determined by adding 20 percent to the percentage due in the prior year, except that no payment shall exceed 100 percent of the cost estimate.

"(d) NOTICE OF PAYMENT AMOUNTS.—Not later than 30 days after the date of issuance of a cost estimate by the Postal Regulatory Commission under section 3651(b)(2) of this title, the Postal Service shall furnish the State of Alaska with written notice of the amount of the next payment due under subsection (a).

"(e) DEPOSIT OF PAYMENTS.—Not later than the last day of the fiscal year of the State of Alaska in which notice of a payment is provided under subsection (d)—

"(1) the State of Alaska shall transmit the payment to the Postal Service; and

"(2) the Postal Service shall deposit the payment in the Postal Service Fund.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 54 is amended by adding at the end the following:

"5404. Reimbursement of Alaska bypass mail costs.".

SEC. 409. APPROPRIATIONS MODERNIZATION.

(a) IN GENERAL.—Section 2401 is amended by striking subsections (b) through (d).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after the date of enactment of this Act.

SEC. 410. RETIREE HEALTH CARE BENEFIT PAYMENT DEFERRAL.

Section 8909a of title 5, United States Code, is amended—

(1) in the section heading, by striking "**Benefit**" and inserting "**Benefits**";

(2) in subsection (d)(3)(A)(v), by striking "$5,500,000,000" and inserting "$1,000,000,000";

(3) in subsection (d)(3)(A)(ix), by striking "$5,700,000,000" and inserting "$7,950,000,000"; and

(4) in subsection (d)(3)(A)(x), by striking "$5,800,000,000" and inserting "$8,050,000,000".

TITLE V—POSTAL CONTRACTING REFORM

SEC. 501. CONTRACTING PROVISIONS.

(a) IN GENERAL.—Part I is amended by adding at the end the following:

"CHAPTER 7—CONTRACTING PROVISIONS

"Sec.
"701. Definitions.
"702. Advocate for competition.
"703. Delegation of contracting authority.
"704. Posting of noncompetitive purchase requests for noncompetitive contracts.
"705. Review of ethical issues.
"706. Ethical restrictions on participation in certain contracting activity.

"§ 701. Definitions

"In this chapter—

"(1) the term 'contracting officer' means an employee of a covered postal entity who has authority to enter into a postal contract;

"(2) the term 'covered postal entity' means—

"(A) the Postal Service; or

"(B) the Postal Regulatory Commission;

"(3) the term 'head of a covered postal entity' means—

"(A) in the case of the Postal Service, the Postmaster General; or

"(B) in the case of the Postal Regulatory Commission, the Chairman of the Postal Regulatory Commission;

"(4) the term 'postal contract' means—

"(A) in the case of the Postal Service, any contract (including any agreement or memorandum of understanding) entered into by the Postal Service for the procurement of goods or services; or

"(B) in the case of the Postal Regulatory Commission, any contract (including any agreement or memorandum of understanding) in an amount exceeding the simplified acquisition threshold (as defined in section 134 of title 41 and adjusted under section 1908 of such title) entered into by the Postal Regulatory Commission for the procurement of goods or services; and

"(5) the term 'senior procurement executive' means the senior procurement executive of a covered postal entity.

"§ 702. Advocate for competition

"(a) ESTABLISHMENT AND DESIGNATION.—

"(1) There is established in each covered postal entity an advocate for competition.

"(2) The head of each covered postal entity shall designate for the covered postal entity 1 or more officers or employees (other than the senior procurement executive) to serve as the advocate for competition.

"(b) RESPONSIBILITIES.—The advocate for competition of a covered postal entity shall—

"(1) be responsible for promoting—

"(A) the contracting out of functions of the covered postal entity that the private sector can perform equally well or better, and at lower cost; and

"(B) competition to the maximum extent practicable consistent with obtaining best value by promoting the acquisition of commercial items and challenging barriers to competition;

"(2) review the procurement activities of the covered postal entity; and

"(3) prepare and transmit the annual report required under subsection (c).

"(c) ANNUAL REPORT.—

"(1) PREPARATION.—The advocate for competition of a covered postal entity shall prepare an annual report describing the following:

"(A) The activities of the advocate under this section.

"(B) Initiatives required to promote contracting out and competition.

"(C) Barriers to contracting out and competition.

"(D) In the case of the report prepared by the competition advocate of the Postal Service, the number of waivers made by the Postal Service under section 704(c).

"(2) TRANSMISSION.—The report under this subsection shall be transmitted—

"(A) to Congress;

"(B) to the head of the postal entity;

"(C) to the senior procurement executive of the entity;

"(D) in the case of the competition advocate of the Postal Service, to each member of the Postal Service Board of Governors; and

"(E) in the case of the competition advocate of the Postal Regulatory Commission, to each of the Commissioners of the Commission.

"§ 703. Delegation of contracting authority

"(a) IN GENERAL.—

"(1) POLICY.—Not later than 60 days after the date of enactment of this chapter, the head of each covered postal entity shall issue a policy on contracting officer delegations of authority for postal contracts for the covered postal entity.

"(2) CONTENTS.—The policy issued under paragraph (1) shall require that—

"(A) notwithstanding any delegation of authority with respect to postal contracts, the ultimate responsibility and accountability for the award and administration of postal contracts resides with the senior procurement executive; and

"(B) a contracting officer shall maintain an awareness of and engagement in the activities being performed on postal contracts of which that officer has cognizance, notwithstanding any delegation of authority that may have been executed.

"(b) POSTING OF DELEGATIONS.—

"(1) IN GENERAL.—The head of each covered postal entity shall make any delegation of authority for postal contracts outside the functional contracting unit readily available and accessible on the website of the covered postal entity.

"(2) EFFECTIVE DATE.—This paragraph shall apply to any delegation of authority made on or after 30 days after the date of enactment of this chapter.

"§ 704. Posting of noncompetitive purchase requests for noncompetitive contracts

"(a) POSTING REQUIRED.—

"(1) POSTAL REGULATORY COMMISSION.—The Postal Regulatory Commission shall make the noncompetitive purchase request for any noncompetitive award for any contract (including any agreement or memorandum of understanding) entered into by the Postal Regulatory Commission for the procurement of goods and services, in an amount of $20,000 or more, including the rationale supporting the noncompetitive award, publicly available on the website of the Postal Regulatory Commission—

"(A) not later than 14 days after the date of the award of the noncompetitive contract; or

"(B) not later than 30 days after the date of the award of the noncompetitive contract, if the basis for the award was a compelling business interest.

"(2) POSTAL SERVICE.—The Postal Service shall make the noncompetitive purchase request for any noncompetitive award of a postal contract in an amount of $250,000 or more, including the rationale supporting the noncompetitive award, publicly available on the website of the Postal Service—

"(A) not later than 14 days after the date of the award; or

"(B) not later than 30 days after the date of the award, if the basis for the award was a compelling business interest.

"(3) ADJUSTMENTS TO THE POSTING THRESHOLD FOR THE POSTAL SERVICE.—

"(A) REVIEW AND DETERMINATION.—Not later than January 31 of each year, the Postal Service shall—

"(i) review the $250,000 threshold established under paragraph (2); and

"(ii) based on any change in the Consumer Price Index for all-urban consumers of the Department of Labor, determine whether an adjustment to the threshold shall be made.

"(B) AMOUNT OF ADJUSTMENTS.—An adjustment under subparagraph (A) shall be made in increments of $5,000. If the Postal Service determines that a change in the Consumer Price Index for a year would require an adjustment in an amount that is less than $5,000, the Postal Service may not make an adjustment to the threshold for the year.

"(4) EFFECTIVE DATE.—This subsection shall apply to any noncompetitive contract awarded on or after the date that is 90 days after the date of enactment of this chapter.

"(b) PUBLIC AVAILABILITY.—

"(1) IN GENERAL.—Subject to paragraph (2), the information required to be made publicly available by a covered postal entity under subsection (a) shall be readily accessible on the website of the covered postal entity.

"(2) PROTECTION OF PROPRIETARY INFORMATION.—A covered postal entity shall—

"(A) carefully screen any description of the rationale supporting a noncompetitive award required to be made publicly available under subsection (a) to determine whether the description includes proprietary data (including any reference or citation to the proprietary data) or security-related information; and

"(B) remove any proprietary data or security-related information before making publicly available a description of the rationale supporting a noncompetitive award.

"(c) WAIVERS.—

"(1) WAIVER PERMITTED.—If the Postal Service determines that making a noncompetitive purchase request for a postal contract of the Postal Service publicly available would risk placing the Postal Service at a competitive disadvantage relative to a private sector competitor, the senior procurement executive, in consultation with the advocate for competition of the Postal Service, may waive the requirements under subsection (a).

"(2) FORM AND CONTENT OF WAIVER.—

"(A) FORM.—A waiver under paragraph (1) shall be in the form of a written determination placed in the file of the contract to which the noncompetitive purchase agreement relates.

"(B) CONTENT.—A waiver under paragraph (1) shall include—

"(i) a description of the risk associated with making the noncompetitive purchase request publicly available; and "(ii) a statement that redaction of sensitive information in the noncompetitive purchase request would not be sufficient to protect the Postal Service from being placed at a competitive disadvantage relative to a private sector competitor.

"(3) DELEGATION OF WAIVER AUTHORITY.—The Postal Service may not delegate the authority to approve a waiver under paragraph (1) to any employee having less authority than the senior procurement executive.

"§ 705. Review of ethical issues

"If a contracting officer identifies any ethical issues relating to a proposed contract and submits those issues and that proposed contract to the designated ethics official for the covered postal entity before the awarding of that contract, that ethics official shall—

"(1) review the proposed contract; and

"(2) advise the contracting officer on the appropriate resolution of ethical issues.

"§ 706. Ethical restrictions on participation in certain contracting activity

"(a) DEFINITIONS.—In this section—

"(1) the term 'covered employee' means—

"(A) a contracting officer; or

"(B) any employee of a covered postal entity whose decision making affects a postal contract as determined by regulations prescribed by the head of a covered postal entity;

"(2) the term 'final conviction' means a conviction, whether entered on a verdict or plea, including a plea of nolo contendere, for which a sentence has been imposed; and

"(3) the term 'covered relationship' means a covered relationship described in section 2635.502(b)(1) of title 5, Code of Federal Regulations, or any successor thereto.

"(b) IN GENERAL.—

"(1) REGULATIONS.—The head of each covered postal entity shall prescribe regulations that—

"(A) require a covered employee to include in the file of any noncompetitive purchase request for a noncompetitive postal contract a written certification that—

"(i) discloses any covered relationship of the covered employee; and

"(ii) states that the covered employee will not take any action with respect to the noncompetitive purchase request that affects the financial interests of a friend, relative, or person with whom the covered employee is affiliated in a nongovernmental capacity, or otherwise gives rise to an appearance of the use of public office for private gain, as described in section 2635.702 of title 5, Code of Federal Regulations, or any successor thereto;

"(B) require a contracting officer to consult with the ethics counsel for the covered postal entity regarding any disclosure made by a covered employee under subparagraph (A)(i), to determine whether participation by the covered employee in the noncompetitive purchase request would give rise to a violation of part 2635 of title 5, Code of Federal Regulations (commonly referred to as the Standards of Ethical Conduct for Employees of the Executive Branch), or any successor thereto;

"(C) require the ethics counsel for a covered postal entity to review any disclosure made by a contracting officer under subparagraph (A)(i) to determine whether participation by the contracting officer in the noncompetitive purchase request would give rise to a violation of part 2635 of title 5, Code of Federal Regulations (commonly referred to as the Standards of Ethical Conduct for Employees of the Executive Branch), or any successor thereto;

"(D) under subsections (d) and (e) of section 2635.502 of title 5, Code of Federal Regulations, or any successor thereto, require the ethics counsel for a covered postal entity to—

"(i) authorize a covered employee that makes a disclosure under subparagraph (A)(i) to participate in the noncompetitive postal contract; or

"(ii) disqualify a covered employee that makes a disclosure under subparagraph (A)(i) from participating in the noncompetitive postal contract;

"(E) require a contractor to timely disclose to the contracting officer in a bid, solicitation, award, or performance of a postal contract any conflict of interest with a covered employee; and

"(F) include authority for the head of the covered postal entity to grant a waiver or otherwise mitigate any organizational or personal conflict of interest, if the head of the covered postal entity determines that the waiver or mitigation is in the best interests of the covered postal entity.

"(2) POSTING OF WAIVERS.—Not later than 30 days after the head of a covered postal entity grants a waiver described in paragraph (1)(F), the head of the covered postal entity shall make the waiver publicly available on the website of the covered postal entity.

"(c) CONTRACT VOIDANCE AND RECOVERY.—

"(1) UNLAWFUL CONDUCT.—In any case in which there is a final conviction for a violation of any provision of chapter 11 of title 18 relating to a postal contract, the head of a covered postal entity may—

"(A) void that contract; and

"(B) recover the amounts expended and property transferred by the covered postal entity under that contract.

"(2) OBTAINING OR DISCLOSING PROCUREMENT INFORMATION.—

"(A) IN GENERAL.—In any case in which a contractor under a postal contract fails to timely disclose a conflict of interest to the appropriate contracting officer as required under the regulations promulgated under subsection (b)(1)(E), the head of a covered postal entity may—

"(i) void that contract; and

"(ii) recover the amounts expended and property transferred by the covered postal entity under that contract.

"(B) CONVICTION OR ADMINISTRATIVE DETERMINATION.—A case described under subparagraph (A) is any case in which—

"(i) there is a final conviction for an offense punishable under section 2105 of title 41; or

"(ii) the head of a covered postal entity determines, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting an offense punishable under section 2105 of such title.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I is amended by adding at the end the following:

"7. Contracting Provisions .... 701".

SEC. 502. TECHNICAL AMENDMENT TO DEFINITION.

Section 7101(8) of title 41, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following:

"(E) the United States Postal Service and the Postal Regulatory Commission.".

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 2309, the Postal Reform Act of 2011, would restore the financial solvency of the United States Postal Service ("the Postal Service" or "USPS") and ensure the efficient and affordable nationwide delivery of mail. The bill makes the reforms necessary to return the Postal Service to solvency and to protect the universal service mandate without creating a one-time or ongoing taxpayer subsidy, or reneging on obligations to postal employees and retirees. To accomplish these objectives, the bill establishes a receiver-like entity to enable the Postal Service—in the event of a default on obligations to the Federal Government—to bring expenses in line with revenues in an expedited manner. Other provisions of the bill ensure the long-term sustainability of the Postal Service by eliminating a number of unfunded Congressional mandates, modernizing the postal workforce, rightsizing postal infrastructure to correspond with diminishing demand, and streamlining postal regulation.

BACKGROUND AND NEED FOR LEGISLATION

The Postal Service is at a critical juncture. Just since fiscal year 2007, annual mail volume is down 21% and annual revenue is down more than $9 billion. The Postal Service lost a record $10.6 billion in Fiscal Year 2011, including a $5.5 billion retiree health care payment that was deferred. The $10.6 billion deficit comes on the heels of an $8.5 billion deficit in fiscal year 2010. On June 24, 2011, the Postal Service began defaulting to the Federal Government on payments due for the employer portion of workers' pension contribution. The Postal Service is also unable to make a statutorily required $5.5 billion payment to prefund retiree health expenses for current employees originally due on September 30, 2011. With its $15 billion line of credit with the U.S. Treasury virtually exhausted, the Postal Service—by its own admission—will likely not be able to make payroll by next fall.

This is not a temporary cash-flow problem. The Postal Service expects the electronic diversion of mail to continue indefinitely. Despite shedding more than 100,000 workers through attrition over the last five years, the Postal Service has failed to cut costs fast enough to offset the drop-off in mail and revenue. Consequently, this venerable American institution rests on the brink of insolvency. Without the significant structural reforms prescribed by this legislation, eight million American jobs tied to the mailing industry could be put at risk.

HISTORY

The existence of an American postal service predates our Constitution. As section 101 of title 39 of the U.S. Code states: "The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people."

While this basic mission remains unchanged today, the Postal Service has from its inception evolved to meet changing needs—primarily via the extension of new services and the reduction of unnecessary services. One major step toward our modern Postal Service came in 1863, when free home delivery first began in urban areas, which almost always involved letter carriers personally handing mail to customers. Prior to that date, Americans were required to venture to a post office in order to collect their mail. While it took several more decades, free home delivery began to be extended to rural areas in 1902. Additionally, in the early decades of the 20th Century, many residential addresses received mail delivery twice a day, and businesses received mail up to four times per day.

As the use of mail changed, however, these services changed as well. With letter carriers waiting as long as an hour per day for patrons to answer the door, by 1923 the Postal Service required a mail slot or box for delivery. By 1950, the Postal Service had phased out the second residential delivery, and multiple deliveries to businesses disappeared soon after. Importantly, these changes enabled the Postal Service to become more efficient, keep prices down, and ultimately better serve the customer.

The 1970 reform

Despite the best efforts of many involved, the postal system by 1970 was edging toward disarray. Conditions deteriorated to such a degree that in March 1970 postal worker strikes broke out around the nation, eventually involving more than 150,000 postal employees. The workers were protesting low wages and unsafe working conditions, but it was clear to all observers that the Post Office Department needed fundamental reform in order to properly address both the valid concerns of the workers and crumbling postal infrastructure. In response to these problems, Congress enacted the most significant postal reform in the Nation's history. This law, known as the Postal Reorganization Act, fundamentally transformed the institution from a taxpayer subsidized cabinet-level agency to a self-supporting, independent entity within the executive branch.

On July 1, 1971, the United States Postal Service replaced the Post Office Department as the Nation's mail service. While much of the customer-facing infrastructure remained unchanged, the institution was now essentially chartered to act in a business-like fashion. Prior to the 1970 reform, the law stated that the Post Office Department "should be operated in an efficient manner," but "it clearly is not a business enterprise." The 1970 law reversed this paradigm and, in the words of the House report on the legislation, provided the "authority to conduct the affairs of the Postal Establishment on a business-like basis." As a result, business principles largely replaced political influence in the decision-making of the postal establishment. After the 1970 reforms, postmasters were no longer appointed by the President, Congress no longer determined postage rate increases, and the taxpayer subsidy of postal operations was phased out. Under the new policy, postmasters began to be selected on merit rather than by patronage; the Postal Rate Commission was created to properly adjudicate rate increases; and the break-even standard came into force, requiring postage rates to cover the operating expenses of the Postal Service. Finally, postal workers were granted the right to collectively bargain over wages and benefits, a privilege that few federal employees enjoy even today.

The ultimate result of the 1970 act was a "grand bargain" of sorts. To the extent practicable, it divorced the day-to-day operations of the Postal Service from political control as it gave the new entity billions of dollars of taxpayer-owned assets. The bargain also, however, protected the taxpayers from subsidizing operating costs of the new agency. Upon the creation of the Postal Service, the Federal Government handed over to the newly created Postal Service—free of charge—all of the assets of its predecessor, the Post Office Department. The transfer of assets to the Postal Service included more than 30,000 post offices, tens of thousands of vehicles, a trained workforce of 700,000 employees, and a monopoly on the use of the mailbox. Once invested with postal assets, the Postal Service was expected to maintain universal access to postal services, run the institution at a break-even rate, pay the pension and retiree health care benefits of all postal workers, and operate without taxpayer subsidy.

The 2006 reform

In many ways, the 1970 reform was incredibly successful. Labor issues were fairly addressed, and the postal infrastructure was modernized and automated. The break-even mandate, however, had the unfortunate effect of discouraging the Postal Service from making difficult decisions as mail usage began to change. The Postal Service could break even by choosing to raise rates rather than cut costs—the latter being a painful option that necessarily entailed confronting specific and vocal interests. At a time when the postal monopoly had great value, raising rates was an economically viable strategy: Even if postage rates increased, individuals and businesses often had little choice but to continue to use mail. By the late 1990s, however, the power of the postal monopoly became increasingly diluted by the emergence of more alternatives to the mail.

The volume of profitable First-Class Mail peaked in 2001 as customers increasingly substituted electronic alternatives for hard-copy letters, placing the Postal Service under growing financial pressure. Meanwhile, USPS faced mounting obligations for retiree health benefits for its aging workforce because those benefits were financed only on a pay-as-you-go basis. Further, a growing consensus began to conclude that the lengthy rate-setting process under the 1970 law was preventing the Postal Service from responding quickly to an increasingly competitive marketplace. In short, the world was changing and it was becoming clear the Postal Service and postal laws would have to change with it.

In 2006, after more than a decade of debate, Congress passed the Postal Accountability and Enhancement Act, a law specifically designed to prepare the Postal Service for the likelihood of continued declines in profitable mail volume in a competitive marketplace where the postal monopoly on delivery of hard copy mail would steadily decrease in value. The 2006 law built on the 1970 reform by enabling the Postal Service to operate even more like a business. This was done by essentially creating a profit motive for the Postal Service. The break-even mandate in place since 1971 was eliminated and replaced with a price cap on postage rate increases. The cap prevented unchecked rate increases, but it also allowed the Postal Service to turn a profit by increasing efficiency and cutting costs. The cap was designed to make the Postal Service to begin looking inward to address budget shortfalls in the exact way the Postal Service would if the monopoly were to lose its value and if rate increases were to fail to generate the necessary revenue. Further, the 2006 law gave the Postal Service greater flexibility to set and change postal rates, especially for its competitive products such as Express Mail and Priority Mail. This greater price flexibility was balanced with protections to ensure fair competition, transparency, and accountability. With liabilities for retiree expenses continuing to accrue, the law required the Postal Service to begin prefunding retiree health care benefits for current and former employees, beginning with a series of ten annual lump sum "catch-up" payments to significantly reduce the unfunded liability of the retiree health care benefit. After the ten-year catch-up period, the remaining liability would be amortized over a forty year period, and the Postal Service would begin paying the "normal cost" for retiree health care during employees' careers on an accrual basis in order that the Postal Service would have fully funded the workers' retiree health care costs by the time of their retirement. This is the manner in which the Postal Service had long paid for retirees' pension benefits.

Taken as a whole, the reforms packaged in the 2006 law were designed to prepare the Postal Service for a future where profitable First-Class Mail would be increasingly supplanted by electronic alternatives and the postal monopoly could no longer be counted on to provide additional revenue with every increase in postage rates. Unfortunately, what legislators could not have known at the time was that the very challenge they were preparing the Postal Service to face would take place far sooner than anyone anticipated. During the first decade of the new century, the internet matured, technology rapidly evolved, and the average consumer quickly grew to rely on and trust electronic communication. As a result, electronic bill payment has boomed since 2001. The recent recession also spurred business mailers to adopt less costly alternatives to mail and to encourage customers to do likewise. Thus, after steadily increasing for more than 200 years, mail volume began to fall. In fiscal year 2006, total mail volume peaked at 213 billion pieces; now, just five years later, mail volume is at levels unseen since the late 1980's and continues to fall at an unforeseen rate exceeding all expectations. The economic realization of significant productivity gains from the increasing use of e-commerce signals almost no chance that mail volume will return.

The mailing industry

While the Postal Service is the second largest civilian employer in the United States, with more than 600,000 employees and more than $65 billion in revenue for fiscal year 2011, the institution is a relatively small part of the mailing industry as a whole. According to a 2010 industry-sponsored study, the mailing industry generated more than $1.1 trillion in economic activity in 2009 and was responsible for 8.7 million American jobs. This tremendous economic force, however, is very tightly interrelated with, and highly dependent on, a functional Postal Service for its continued success.

Many Americans are unaware of the breadth of the mailing industry, which features jobs associated directly or indirectly with virtually every business, nonprofit organization, and government entity in the United States. The vast majority of all mail volume is generated by these entities, with only eleven percent generated by households and three percent representing consumer to consumer communication. The mailing industry is now operating on razor-thin margins after being hit hard by both the recession and electronic diversion. The fallout is stark. From June 2008 to June 2009, the paper industry lost 9.5% of its workforce, the publishing industry lost 10.4%, and the printing industry lost 13%. If the Postal Service destabilizes for even a short period of time, these industries will be seriously imperiled, with dramatic consequences for the broader economy in which jobs are already too scarce.

The challenge facing the Postal Service

The decline in mail is not a temporary, recession-driven phenomenon. So far, Postal Service revenue has declined over $9 billion (12%) from its peak of $75 billion in fiscal year 2007, and the

Postal Service itself projects further declines for the foreseeable future. This revenue decrease is driven by the relentless decline in First-Class Mail, the Postal Service's highly profitable core product. First-Class Mail volume peaked ten years ago and has been declining at an increasingly rapid rate as mailed bills, statements, and communications migrate to electronic alternatives. First-Class Mail volume declined 25% in the last five years and is projected to decline an additional 50% by the end of the decade. Meanwhile, the volume of Standard Mail (primarily advertising) declined 17% over the past five years and is projected to stagnate for the remainder of this decade, in part due to increased competition from internet-based advertising. Importantly, while Standard Mail is also highly profitable, its lower total cost compared to First-Class Mail means that it takes three pieces of Standard Mail to generate the revenue of one piece of First-Class Mail. Further, although the volume of packages delivered by the Postal Service is growing, they generate only a small part of revenues and cannot offset declines in First-Class Mail. Most troubling of all is that even the Postal Service's dire projections could prove overly optimistic if communication continues to move to digital technologies as quickly as in the recent past. GAO recently reported that such mail volume trends underscore the need for the Postal Service business model to undergo fundamental changes to reduce personnel and network-related costs.

Eighty percent of the Postal Service's costs are workforce-related, a proportion that has remained steady for many years despite vast changes in automation and information technology. These costs must be addressed as part of any serious reform effort. A long-standing, statutorily-mandated collective bargaining process tilted against Postal Service management has historically hindered the ability of the Postal Service to control these costs. This process has yielded contracts providing guaranteed wage increases, benefits exceeding those of other federal workers, and no-layoff protections that virtually no other federal employees enjoy. The most recent contract, ratified this spring by the Postal Service and the American Postal Workers Union (APWU), again provided guaranteed wage increases, failed to bring Postal Service coverage of health and life insurance benefits into parity with other federal agencies, and actually expanded no-layoff protections. With mail volume declining, the inability of the Postal Service to rightsize its workforce due to no-layoff protections has left the Postal Service in a situation where it must pay more and more workers to sit idle. The Postal Service has no mechanism to transition unneeded workers off the rolls and no money to provide incentives for employees to retire voluntarily. The ability to rightsize the Postal Service workforce is a vital component of a sustainable business model that will continue to provide attractive jobs and universal postal service. A statutory change is thus urgently needed to permit difficult but necessary workforce restructuring.

The alleged CSRS "overpayment"

One item initially left unclear by the 1970 postal reform was the division of responsibility for the pension obligations of individuals who worked for both the Post Office Department and its successor entity, the Postal Service. This issue was clarified in 1974, with the enactment of P.L. 93–349. The 1974 law created an explicit cost allocation method requiring that the taxpayer pay pension costs generated by the Post Office Department and that the postal ratepayer pay pension costs generated by the Postal Service. Specifically, the law required the Postal Service to pay for "any estimated increase in the unfunded liability" of postal workers' pensions that was the result of any action on the part of the Postal Service. Due to the "high three" salary years federal pensions are based on and because the "high three" almost always occurs in the last three years of service, the Postal Service under this formula ultimately pays a greater portion of the applicable employee pensions than if the cost of the pensions were divided between the two entities based on the proportion of years an employee worked at each entity. Importantly, at the time this allocation formula was established, the parties involved recognized it as equitable in light of the tremendous free asset transfer of postal infrastructure to the Postal Service as well as the granting of the postal monopoly to the new entity. In a letter included in House Committee Report 93–120 to the bill that became P.L. 93–349, the Postal Service General Counsel wrote:

> After careful consideration—and in full awareness of the financial burdens enactment of this bill will impose—the Postal Service has concluded that it is proper, as a matter of principle, for these costs to be imposed on postal ratepayers rather than the taxpayers. Properly understood, the principle of postal self-sufficiency calls for those who use postal services to bear the costs of those services.

That quote addresses the fundamental point of P.L. 93–349: the taxpayer should not pay for raises and pension increases unilaterally granted by the Postal Service to postal employees.

Even so, both the USPS Office of Inspector General (USPS OIG) and Postal Regulatory Commission (PRC) issued reports in recent years alleging that the Office of Personnel Management's (OPM) current method of allocating responsibility for Civil Service Retirement System (CSRS) pension benefits under P.L. 93–349 requires the Postal Service to shoulder an excessive share of employee retirement obligations. The USPS OIG and the PRC proposed alternate methodologies that they estimated would return $56 billion to $85 billion in pension "overpayments" from the Federal Government back to the Postal Service. The USPS IG claimed that amendments Congress made in the 2003 legislation actually required the Office of Personnel Management (OPM) to alter its allocation formula. Still, OPM, under both President Bush and President Obama, has stood by the existing allocation methodology and refutes the notion that there has been any CSRS "overpayment" by the Postal Service. Additionally, in February of this year, the OPM Inspector General (OPM IG) released a detailed report directly refuting the allegations raised by the USPS OIG and the PRC.

Nevertheless, many legislators and interest groups continued to allege the existence of a CSRS "overpayment" and advocated that the return of the overpayment be made a central feature of any postal reform bill. In an effort to resolve the dispute, a bipartisan, bicameral group of legislators from the House and Senate committees of jurisdiction over the Postal Service requested that the nonpartisan U.S. Government Accountability Office (GAO) look into the issue.

GAO's report, released this past October, refuted the "overpayment" argument unequivocally. It found that: OPM's current methodology complies with current law; no CSRS refund is owed to the Postal Service; and any change in the pension cost allocation formula that puts more of the funding burden on the Government would come at a dollar for dollar cost to the taxpayer. The GAO report stated:[1]

- "The current methodology used by OPM for allocating responsibility for CSRS benefits between USPS and the federal government is consistent with applicable law. Congress created USPS in 1971 as an independent, self-sustaining entity with a package of assets and obligations as well as competitive advantages and disadvantages. In 1974, Congress explicitly allocated responsibility to USPS for CSRS benefits attributable to post-1971 USPS pay increases and, although it revised aspects of the CSRS funding process in 2003 and 2006, it did not alter the fundamental allocation of responsibility for CSRS benefits."
- "Although the USPS OIG and PRC reports present alternative methodologies for determining the allocation of pension costs, this determination is ultimately a policy choice rather than a question of accounting or actuarial standards."
- "Some have referred to overpayments that USPS has made to the CSRS fund. The term "overpayment" can imply an error of some type—mathematical, actuarial, or accounting. We have not found evidence of error of these types. Hence, any reallocation of CSRS benefit responsibility would be a significant change from a policy that has been in place since 1974 and not a correction of any actuarial or accounting methodological error."
- "While the USPS OIG and PRC reports make judgments about fairness, the 1974 law also implicitly reflected fairness. Congress considered that USPS was to be self-sustaining and that the Federal Government, which had no control over USPS pay increases, should not be liable for pension benefits attributable to those increases. Also, the USPS OIG and PRC reports assess the fairness of the allocation in isolation, looking only at pension costs. In the private sector, the fairness of the allocation of pension obligations between two businesses depends on the total package of assets and obligations—both pension and non-pension. Finally, the cost of USPS's CSRS pension allocation based on the 1974 law has already been reflected in postal rates for most of the past four decades."
- "The key impacts of transferring assets out of the CSRS fund to USPS based on the current proposals would be to increase the Federal Government's current and future unfunded pension liability by an estimated $56 billion to $85 billion. This liability would then be funded by the Federal Government using tax revenue, borrowing, or both. Also, CSRS beneficiaries would continue to receive their benefits under current law, even if the Federal Government's unfunded CSRS liability increases, but this could indirectly create pressure to reduce pension benefits."

[1] U.S. Government Accountability Office: U.S. Postal Service: Allocation of Responsibility for Pension Benefits between the Postal Service and the Federal Government, GAO–12–146, highlights, pages 9, 18, 19. October 17, 2011. Available at http://www.gao.gov/new.items/d12146.pdf.

• "Any change in the USPS's share of responsibility for CSRS benefits would provide some temporary relief from the pressures USPS faces because of declining volume, revenue, and inflexible costs, but would not by itself address USPS's long-term financial outlook. Such a transfer of CSRS funds would not be sufficient to repay all of USPS's debt and address current and future operating deficits related to USPS's inability to cut costs quickly enough to match declining mail volume and revenue."

• "The decline of First-Class Mail—USPS's most profitable product—has accelerated as Americans shift to using electronic communications and other payment alternatives. This trend exposes weaknesses in USPS's business model, which has relied on volume growth to help cover costs. To meet these changing customer needs, become more efficient, control costs, and keep rates affordable, USPS must modernize and restructure. To do so, it will need to become much leaner and more flexible."

Oversight hearings on postal reform

To determine how best to ensure the solvency and viability of the Postal Service, the Oversight and Government Reform Committee and its Subcommittee on the Federal Workforce, the U.S. Postal Service, and Labor Policy held four hearings on topics related to the Postal Service between March and June of this year. The first hearing, entitled "Pushing the Envelope: The Looming Crisis at USPS," was held by the subcommittee on March 2, 2011. It provided a broad overview of the major challenges facing the Postal Service. Members of the Subcommittee heard testimony from Postmaster General Patrick Donahoe, and Phillip Herr, a Director with the Government Accountability Office, along with other prominent members of the postal community.

A reduction in workforce costs, the testimony made clear, was necessary in order for the Postal Service to remain financially viable in the coming years. Soon after the hearing, however, the Postal Service announced a tentative collective bargaining agreement with one of its largest unions, the American Postal Workers Union (APWU), which appeared to move in the wrong direction. In order to allow the Postal Service to explain how the agreement was in line with the financial and strategic goals of postal management, a full committee hearing was held on April 5, 2011, entitled "Are Postal Workforce Costs Sustainable?" At the hearing, members of the Committee heard from two members of the Postal Service Board of Governors, the Postmaster General, and Cliff Guffey, President of APWU. At this hearing, two important facts emerged. The first was that the Postal Service hoped to reduce its career workforce by more than 200,000 employees by 2020. The second was that the collective bargaining arbitration system is effectively broken and that the Postal Service has repeatedly agreed to contracts that do not provide Postal Service management the flexibility necessary to adapt to changing realities.

The Federal Workforce Subcommittee followed up with two additional hearings. On May 12, 2011, the hearing entitled, "Where Have All the Letters Gone?—The Mailing Industry and Its Future," brought together witnesses from across the mailing industry to help understand how they viewed the Postal Service and what types of reform they hoped to see. The witnesses, who represented paper companies, printers, First-Class mailers, and marketing/ Standard mailers, all discussed the significant downsizing their industries had gone through, the importance of a viable Postal Service to their business models, and the need for the Postal Service to rapidly rightsize its infrastructure to keep costs down. The final hearing, entitled, "Postal Infrastructure: How Much Can We Afford?" was held on June 15, 2011. Testimony was heard from the Postal Service on its plans for facility rightsizing and from industry experts who provided analysis on the benefits and drawbacks of different infrastructure-related proposals.

H.R. 2309, the Postal Reform Act of 2011

Just one week after the Federal Workforce Subcommittee held its hearing on postal infrastructure, the Postal Service announced its intention to cease making its required employer contributions to the Federal Employee Retirement System as part of what it termed a "cash conservation" effort. These employer contributions are necessary in order to fully fund the pensions of postal employees. In foregoing these payments, the Postal Service effectively announced that its fiscal woes were beginning to yield real victims. Chairman Issa and Subcommittee Chairman Dennis Ross responded immediately. The next day, June 23, 2011, they introduced the Postal Reform Act (PRA). The PRA is the most comprehensive proposed reform of the Postal Service since its creation in 1970. The product of several months of drafting efforts, the bill attempts to give the Postal Service the tools necessary to succeed in the 21st Century.

The PRA is designed to meet a core group of objectives by using a balanced, multifaceted approach. Drawn in part from the testimony received at the Committee's hearings on the issue, as well as findings and recommendations dating back to the 2003 Presidential Commission on the Postal Service, the objectives include: (1) ensuring the Postal Service can continue to provide effective, affordable universal service; (2) ensuring the Postal Service will continue to meet all of its obligations to its employees and retirees; (3) addressing the short-term liquidity crisis facing the Postal Service; (4) enabling the Postal Service to bring expenses into line with revenues to ensure medium- and long-term viability; (5) streamlining regulation and enable the Postal Service to act like a business; and (6) protecting the self-funding nature of the Postal Service while preventing a taxpayer funded bailout that would defer and complicate the process of instituting the necessary fundamental reforms. Given the severity of the Postal Service's financial situation, the Committee saw fit to implement an array of reforms, including: rightsizing the postal infrastructure; rate increases for subsidized mail; granting flexibility for the Postal Service to shift to 5-day delivery of mail; bankruptcy-like restructuring; modernization of collective bargaining; workers' compensation reform; regulatory streamlining; elimination of Congressional mandates; and contracting reform. This multi-pronged approach resulted in a bill with five titles, which address, in sequence: infrastructure and deregulation reforms; short-term solvency and restructuring; workforce flexibility; revenue enhancement and regulatory streamlining; and contracting reform.

With the wide-ranging nature of the needed reforms, the Committee drew on many sources to help craft the text of the PRA.

To facilitate rightsizing and to limit Congressional and stakeholder interference that has stymied past efforts, the bill creates the Commission on Postal Reorganization (CPR) based on the effective Base Realignment and Closure (BRAC) programs used to reduce our military footprint after the end of the Cold War. The CPR will be a bipartisan entity that uses a holistic approach to help mitigate the dangers of piecemeal closings' impact on service quality and to ensure that all Americans continue to have proper access to postal services. Importantly, the bill does not pre-empt or discourage any actions taken by the Postal Service to rightsize infrastructure on its own. Savings achieved by the Postal Service through facility rightsizing before the CPR acts will reduce dollar-for-dollar the savings the CPR is required to achieve. Furthermore, in recognition of its unique knowledge of its own network, the Postal Service will develop all of the initial plans for closures and consolidations under the CPR. This gives the Postal Service the greatest control possible over rightsizing while ensuring that rightsizing will be implemented in a timely manner.

Any entity that defaults on its obligations should face consequences. The Postal Service is on the verge of default. As the Postal Service is not subject to private sector bankruptcy rules, the Committee drew on the example of the highly successful D.C. Control Board. The Control Board, formally known as the District of Columbia Financial Responsibility and Management Assistance Authority, was a receiver-like entity put in place during the 1990s in order to restore D.C.'s solvency after a period of financial mismanagement. As amended during full committee consideration, the PRA provides the Postal Service with a temporary $10 billion increase in its line of credit to finance restructuring. If, after two years, the Postal Service fails to reduce its annual losses to less than $2 billion, including any defaults or missed payments, a new Financial Responsibility and Management Assistance Authority will take full control over the Postal Service. This is not a new management layer. The Authority would actually replace the Postal Service's existing Board of Governors as the management unit of the Postal Service. The Authority is given a series of aggressive cost-cutting targets and provided with tools to ensure adequate restructuring and financial improvement. For example, the Authority will be empowered to move the Postal Service away from door delivery at an annual savings of at least $3.5 billion, and it will be empowered to direct the Postal Service to create its own workers' compensation program for postal employees independent of the existing federal workers' compensation program. Once the Authority returns the Postal Service to profitability and promised retirement benefits to its employees are ensured, the Authority will become dormant, and the previous authority of the Board of Governors will be restored.

To ensure the $10 billion in temporary borrowing is repaid, the Postal Service is required to repay a portion of the loan each year through property sales until the entire loan is repaid after ten years. The Postal Service owns more than $50 billion in real property by most estimates.

In addressing workforce modernization, the Committee drew on three primary sources: its own hearings, the 2003 President's Commission on the United States Postal Service, and lessons from the broader federal workforce. At the Committee's April 5th hearing, the Postal Service's statutorily prescribed arbitration process was described by Postmaster General Donahoe as a "roll of the dice." Many describe it as biased in favor of postal unions, and a key historical factor influencing Postal Service management to enter into union contracts that jeopardize the institution's financial condition and long-term viability.

To modernize the collective bargaining process, which largely dates back to the 1970 Act, the Committee draws on the recommendations of the 2003 President's Commission by changing the process to a mediation-arbitration process with a defined timeline and requiring the arbitrator to take into account long neglected pay comparability requirements. The PRA process also includes a requirement that arbitrators take into account the financial condition of the Postal Service in any decision. The goal of this reform is to ensure that the Postal Service has the necessary flexibility to remain a self-sustaining entity under a fair collective bargaining process that benefits both postal workers and the Postal Service in both the short- and long-term.

Lessons from the non-postal federal workforce are also reflected in the PRA. For instance, Section 304 of the PRA includes a prohibition on any provision in a collective bargaining agreement restricting the Postal Service's ability to use title 5 reduction-in-force procedures. Postal employees are virtually the only federal workers who enjoy such protections. This is no longer tenable, since the Postal Service is now in a position where it is unable to achieve necessary workforce reductions through attrition alone. The bill also specifically allows unions to negotiate alternate reduction-in-force methods that achieve needed rightsizing. In fact, the Committee believes that the ideal way to rightsize the postal workforce is to convert retirement-eligible employees to retirement. Since 250,000 postal employees are eligible for full retirement by 2015, nearly all needed workforce reductions can be achieved via retirement. Further, the Postal Service is already authorized to re-employ annuitants on a part-time basis, meaning retirees could work the minimal hours necessary to keep their pre-retirement pay. These reemployed annuitants could also provide the Postal Service with a trained, flexible pool of labor at an affordable cost.

The PRA further requires that postal employees pay at least the same share of health and life insurance premiums as other federal employees. Enjoying access to the federal health and life insurance programs—which are generally more generous than plans available in the private sector for comparable jobs—postal employees currently pay only about 21 percent of their health insurance premiums, as compared to 28 percent for other federal employees, and they pay nothing toward their life insurance premiums, as compared to 66 percent for other federal employees. Equalizing the premium contributions would save the Postal Service $700 million per year. This PRA provision only takes effect once the collective bargaining agreements currently being negotiated expire. In that way, it takes effect for all postal employees at about the same time, is implemented with sufficient lead time, and does not break any collective bargaining agreements.

The PRA also makes an in-depth effort to unburden the Postal Service from unfunded mandates and over-burdensome regulations.

It removes restrictions on the Postal Service's ability to manage its retail network, streamlines the post office closure appeal process, streamlines review of competitive Negotiated Service Agreements, and expedites PRC review of a number of Postal Service proposals. These specific, targeted provisions of the PRA are designed to improve utility and quality for the consumer and to help keep rates affordable while also giving greater flexibility to the Postal Service.

For instance, the PRA incentivizes the shifting of brick-and-mortar post offices to more cost-effective and consumer-accessible Contract Postal Units (CPUs) by eliminating post office closure appeals if a CPU replaces the post office. To protect the consumer if a CPU that replaced a post office closes, individuals are empowered to petition for the post office's restoration. CPU's can have as little as one-tenth the overhead cost of a post office. Greater use of CPUs can improve customer accessibility while reducing expenses. A local grocery store that also serves as a CPU is likely to keep much longer hours than a stand-alone post office and is likely to be a frequent destination point more convenient to visit than the local post office. Alternative access entities such as CPUs will not work everywhere, particularly in some rural areas where there is no alternative to a post office. But there is great promise of savings and consumer benefit in a prudent shift toward non-traditional forms of access. To that end, the PRA encourages a retail modernization effort, albeit one in which proper consumer protections for postal access remain.

The PRA also streamlines the oversight of Negotiated Service Agreements (NSAs) while putting in clear cost-coverage requirements. Currently, NSAs help the Postal Service compete in the package delivery market, but a complicated legal framework that involves both the Postal Service Board of Governors and the PRC restricts the Postal Service's responsiveness and hurts its competitiveness. The PRA amends NSAs to allow review of substantially similar competitive NSAs to be considered expeditiously after the fact, and allows profitability to be measured across all similar NSAs rather than on a one-by-one basis. Additionally, the PRA eliminates an existing loophole that allows the Postal Service to enter into NSAs that can be to the net financial harm of the Postal Service. Together, these two NSA reforms will enable the Postal Service to react in a more agile fashion when competing for business while also strengthening transparency and cost coverage requirements that protect other ratepayers, competitors, and the taxpayer.

The PRA enhances the Postal Service's ability to generate revenue from those non-postal endeavors that are appropriately pursued by a Federal Government entity. A number of bills introduced this Congress give the Postal Service a more or less free hand to offer non-postal products; the PRA takes a noticeably more restrictive approach. It allows the Postal Service to sell state services, provided they do not inhibit postal business; to sell advertising on vehicles and property; and it grandfathers in those specific products and services approved under the 2006 reform. To manage non-postal products, the PRA creates a new well-defined regulatory framework that clarifies which non-postal services are authorized and ensures that non-postal products remain profitable. The Committee's decision not to allow banking or internet services recognizes the Postal Service's unique status as an establishment of the Federal Government. As a federal agency, the Postal Service enjoys a number of benefits the private sector does not. These benefits include exemptions from income tax and property tax, the ability to exercise eminent domain, preferential borrowing access, and implicit taxpayer backing in the event of a default. Serious fair competition issues arise if the Postal Service is permitted to leverage its property and assets—including property received for free from the Federal Government when the Postal Service was created in 1971—to compete in areas well-served by the private sector. The Postal Service possesses inherent unfair advantages over the private sector in many potential non-postal arenas. Moreover, the Postal Service has an unfortunate history of taking large losses in its forays into new enterprises, such as e-commerce. The PRA's non-postal provisions therefore contain strict, but achievable cost coverage requirements: 150% cost coverage for state services and 200% cost coverage for advertising. While non-postal services may never produce a tremendous amount of new revenue for the Postal Service, the PRA maximizes whatever potential exists while avoiding unfair competition with the private sector.

The PRA also enables the Postal Service to increase revenue or avoid losses by altering the manner in which some postage rates are determined. This includes a requirement that all products within a class cover attributable costs—to the extent that is possible under the existing price caps that limit annual rate hikes to rises in the Consumer Price Index (CPI). This change addresses an unfair status quo in which some businesses that use mail products which cover costs are effectively forced to subsidize competitors who use products that are significantly below cost coverage. For instance, the Standard Mail Flats product covered only 82% of its attributable costs in fiscal year 2010. Another PRA reform requires entire mail classes that fail to cover attributable costs to eventually reach a minimum of ninety percent cost coverage—even if that means small, gradual rate increases that exceed the CPI price cap. As part of an effort to ensure that attributable cost measures are accurate, the PRA permits a two-year delay before the increases in excess of CPI are implemented. Ultimately, this change will ensure that the Periodicals class moves toward greater cost coverage in a fair manner. In fiscal year 2010, this class cost the Postal Service more than $600 million and lost money for the 14th straight year. A third significant pricing change in the PRA reduces the nonprofit advertising discount by 50 percent over a 13-year period while leaving the discount for nonprofit editorial matter in place. Specifically, starting three years after the PRA's enactment, the nonprofit advertising discount will decrease by two percent per year until it is reduced from its current level of 40 percent to 20 percent. Over the long-term, this should enable the Postal Service to recoup some of the more than $1 billion in revenue it foregoes each year due to the steep discounts nonprofits receive compared to normal postage rates. At the same time, the provision maintains a significant major rate preference for nonprofits and provides a long time-line for adaptation to a new pricing structure. One preference that is terminated immediately, however, is one allowing state and national political committees to use the nonprofit discount. Finally, the PRA will require the State of Alaska to reimburse the Postal

Service for the additional costs it incurs to provide for bypass mail—a provision that is phased in over a 5-year period. Bypass mail is a unique system in the State of Alaska that heavily subsidizes the shipment of large and commercial items to the rural areas of the state, including groceries and construction supplies. According to PRC data, the program costs the Postal Service more than $100 million per year. The Committee views this unfunded mandate on the Postal Service as unfair. By asking the State itself to sponsor the program, the PRA protects delivery at no cost to the Postal Service and rural Alaskans. Altogether, the Committee estimates the changes made to the rate structures will improve the fiscal standing of the Postal Service by a minimum of $1 billion annually, once all provisions are fully phased in.

Postal reform should increase the Postal Service's flexibility to operate in a more efficient, businesslike manner while providing appropriate accountability and oversight to ensure fair and transparent operations. When the Postal Service was created as an independent establishment of the Federal Government, it was authorized to operate more like a business and exempted from most federal laws and regulations applicable to purchasing. Notably, the Postal Service is exempt from the Federal Acquisition Regulation (FAR) that establishes acquisition policies and procedures for all executive branch agencies, including the requirement that each agency maintain a competition advocate responsible for promoting full and open competition, transparency in the public reporting of noncompetitive contract awards and their justifications, and limitations on delegations of contracting authority. The Postal Service is also exempt from the Competition in Contracting Act that establishes the federal policy of "full and open competition" for most federal contracts.

The Postal Service has, however, repeatedly abused its contracting flexibility in recent years, with numerous postal officials implicated in conflicts of interest involving noncompetitive contract awards to their friends and former associates. Other contracting problems include poor business practices, inadequate transparency, lax internal oversight, lack of accountability, and misuse of delegations of contracting authority.

Considering this history, the statutory reforms in this bill are necessary to improve Postal Service contracting practices, to reduce costs through contracting out and competition, and to prevent the recurrence of poor contracting practices, lax oversight, and improper ethical behavior. The PRA requires the Postal Service and Postal Regulatory Commission to establish competition advocates to promote contracting out of functions that the private sector can perform equally well or better and at lower cost, to obtain best value, and to review procurement activities. Other reforms require high ethical standards, transparency for noncompetitive contracts, policies for delegations of contracting authority, and accountability.

A few unfinished provisions were not included in the text of the PRA as introduced. This includes a planned reform to the workers' compensation program for postal employees, which was only included in the original text as a sense of Congress provision. Other provisions that were added after introduction are delivery point modernization, restructured funding of the Alaska Bypass mandate, and a modified reduction-in-force process for collective bargaining postal employees. These provisions were included in the amendment in the nature of a substitute offered by Federal Workforce Subcommittee Chairman Dennis Ross during Subcommittee consideration of the PRA.

As reported from committee, the PRA would stem the growing tide of red ink at the Postal Service, and restores its solvency. In fiscal year 2011, the Postal Service estimated its loss to be approximately $10 billion, including the statutorily required retiree health care prefunding payment. Once fully implemented, the PRA contains $10.7 billion in annual cost reductions and revenue increases and billions more in other reforms which cannot be readily quantified. Quantifiable savings include a minimum annual savings of $3.5 billion from delivery point modernization, $2.5 billion from allowing the Postal Service to shift to 5-day delivery of mail, $2 billion from the mail processing CPR report, $1 billion from the postal retail CPR report, $1 billion from changes in the rate structure, and $700 million from the change in the premium share for health and life insurance for postal employees. Other provisions with considerable long-term savings potential include the enhanced control the Postal Service is granted over its retail network, the modernization of the collective bargaining process, and the streamlining of PRC regulatory oversight. Taken together, the various savings measures in the PRA are designed to be more than enough to restore the Postal Service's financial viability.

The Postal Reform Act will fundamentally reshape the Postal Service to meet the challenges of the digital age. Americans are increasingly less reliant on the mail. The Postal Service, however, remains an indelible American institution, and its continued financial viability is essential to the health of our economy. On its current financial trajectory, the Postal Service will be unable to make payroll in a matter of months. If nothing is done, either mail delivery will come to a stop, or Congress will be forced to reinstate a direct taxpayer subsidy to the Postal Service. The American people will not support either of these options. Thus, inaction is not acceptable. The Committee crafted the Postal Reform Act to make the hard decisions necessary to bring the Postal Service back from the brink of fiscal ruin. By refusing to kick the can down the road, the PRA gives the Postal Service the tools it needs to rightsize its workforce and infrastructure and develop a business model that will return the institution to profitability, primarily by loosening Congressional control and enabling the Postal Service to act more like a business. For the Postal Service to endure as it has for the last two hundred years, it must make major adaptations. But its fundamental mission need not be sacrificed. Proper Congressional action now will enable the Postal Service to continue to provide necessary and important services to those who depend on the mail.

Legislative history

H.R. 2309, the Postal Reform Act of 2011, was introduced on June 23, 2011 by Representative Darrell E. Issa and was referred to the House Committee on Oversight and Government Reform and the House Committee on Rules. On June 30, 2011, the bill was referred to Oversight and Government Reform's Subcommittee on Federal Workforce, U.S. Postal Service, and Labor Policy.

On September 21, 2011, the Subcommittee on Federal Workforce, U.S. Postal Service, and Labor Policy considered H.R. 2309. At the business meeting, Subcommittee Chairman Dennis Ross offered an amendment in the nature of a substitute (ANS) to be considered in place of H.R. 2309. The ANS added provisions to the bill, including: delivery point modernization and the phase-out of door delivery of mail; modified reduction-in-force powers for the Authority enabling it to convert retirement-eligible employees to retirement; a requirement that the State of Alaska reimburse the Postal Service for the unfunded mandate imposed upon it by the Alaska Bypass mail program; and modernization of the federal workers' compensation program as it applies to postal employees. The Subcommittee accepted the ANS and rejected a number of amendments that would have removed all infrastructure and workforce-related reforms from the bill. On a roll call vote of 8–5, the Subcommittee favorably reported H.R. 2309, as amended, to the full committee for consideration.

On October 13, 2011, the Oversight and Government Reform Committee held a business meeting to consider H.R. 2309, as reported by the Subcommittee. During consideration of the bill, Subcommittee Chairman Ross offered an ANS to the reported text. The ANS made a few substantial changes, the most significant being the addition of a section prospectively prohibiting any restrictions on the Postal Service's use of title 5 U.S.C. reduction-in-force procedures in any future postal collective bargaining agreements. The ANS also replaced the workers' compensation reform included at Subcommittee with a new provision giving the Authority the discretion to remove postal employees from the existing federal workers' compensation program and placing them in a new program developed by the Postal Service. Finally, the ANS also postponed the phase-out of most door delivery until two years after the initiation of a Control Period. A total of 13 amendments to the ANS were accepted—12 by voice vote—during the Business Meeting. A total of eight amendments were defeated and two others were withdrawn. As in Subcommittee, most of the defeated amendments would have struck large portions of the bill text. This included two amendments to strike the entire text of the bill; one would have inserted in its place the text of H.R. 1351, the other the text of H.R. 2967. At the conclusion of debate on amendments, the Committee, by a 22–18 vote, ordered H.R. 2309, as amended, favorably reported to the full House for consideration.

SECTION-BY-SECTION

TITLE I—POSTAL SERVICE MODERNIZATION

Subtitle A—Commission on Postal Reorganization

Sec. 1. Short title; table of contents; references

Identifies that the bill may be referred to as the Postal Reform Act of 2011, lists the table of contents, and provides that any references not expressly provided refer to title 39, United States Code.

Sec. 101. Short title

Identifies that the subtitle may be referred to as the "Commission on Postal Reorganization Act," or the "CPR Act."

Sec. 102. Definitions

Defines a number of terms used in the title. This includes the terms “postal retail facility,” “mail processing facility,” “district office,” “area office,” “baseline year,” and “Member of Congress.”

Sec. 103. Commission on Postal Reorganization

Establishes the Commission on Postal Reorganization (CPR) not later than 90 days after enactment. The CPR will be composed of five members appointed by the President. One member shall be selected by each of the following: the Speaker of the House, the Majority Leader of the Senate, the Minority Leader of the House, the Minority Leader of the Senate, and the Comptroller General of the United States. The Chairman of the CPR shall be selected by the President during the selection of CPR members.

No member of the CPR may be representative of specific interests using the Postal Service and no member may serve if they are a Member of Congress or have worked for the United States Postal Service (USPS), the Postal Regulatory Commission (PRC), or any USPS-related labor organization in the previous three years. Additionally, no more than three commissioners may be of the same political party. The Commissioners are appointed for the life of the CPR and are paid at a per diem rate of $40,000 per year.

Provides for CPR staff and CPR procedures. Includes the authorization for a Director and other employees as the Director finds appropriate. Additionally authorizes federal employees to be detailed to the CPR for more than one year, at the request of the Director, and limits the number of individuals detailed from USPS or the PRC to a combined number of no more than one-third of the total staff.

Allows the CPR to hire consultants and lease space and acquire property to the extent funds are available. Requires the CPR to issue annual financial statements and establish proper controls over its financial reporting, including internal audits and annual certification from an independent certified public accounting firm. The Comptroller General is also authorized to audit the CPR at such times as the Comptroller General deems necessary.

Provides a one-time appropriation of $20,000,000 from the Postal Service Fund to pay for all expenses of the CPR during its existence. Terminates the CPR sixty days after the submission of its final reports.

Sec. 104. Recommendations for closures and consolidations

Requires the Postal Service to prepare a plan, in consultation with the PRC, to close or consolidate Postal Service retail facilities in order to achieve a minimum $1 billion reduction in retail expenditures relative to the last full fiscal year prior to enactment. The plan is due not later than 120 days after enactment.

Requires the Postal Service to prepare a plan, in consultation with the USPS Inspector General (IG), to close or consolidate Postal Service processing facilities in order to achieve a minimum annual reduction of $2 billion in mail processing expenditures relative to the last full fiscal year prior to enactment. The plan must include sufficient closures and consolidations to limit Postal Service excess mail processing capacity to no more than ten percent of total mail processing capacity. Subsection (b)(4) requires the CPR to notice a proposed definition of “excess mail processing capacity” in the Federal Register within 120 days of enactment and to allow for a thirty day notice and comment period, with a final definition noticed within 180 days of enactment. The plan is due 300 days after enactment.

Requires the Postal Service to prepare a plan, in consultation with the USPS IG, to reduce the number of Postal Service Area and District Offices by at least thirty percent relative to the last full fiscal year before enactment. The plan is due 300 days after enactment.

Each completed plan is submitted to the CPR, which has the opportunity to review and amend the plans. After the submission of a plan to the CPR, the CPR issues an Initial Report to Congress on its findings. The CPR has sixty days to issue its report for the retail plan and ninety days to do so for both the mail processing plan and the Area and District office plan. In the initial reports, the CPR is required to explain and justify any changes it makes to the plans proposed by the Postal Service. The CPR must hold at least five public hearings on each Initial Report within sixty days of its filing, with the hearings to be held in geographically distinct locations. Hearing testimony must be taken under oath.

Once the final public hearing is held on a plan, the CPR must issue a Final Report on that plan within sixty days. The Final Report must contain a summary of the results of the hearings and the final closure and consolidation recommendations for Congress. Recommendations of each Final Report, including any CPR modifications to the Postal Service’s plan, must be approved by a minimum of four members of the Commission. If the $2 billion mail processing savings goal or the 30 percent Area and District office closure goal are not met, however, the CPR may, by a unanimous vote, lower the requirements by not more than 25 percent. Upon approval, plans are submitted to Congress.

Under the Postal Service plan and the CPR reports on postal retail closure and consolidation, no more than ten percent of the facilities recommended for closure or consolidation may be post offices determined to be within K or L cost ascertainment groupings combined. Such post offices have the least revenues and generally are small post offices located in rural areas.

Requires the Postal Service to report on the impacts of Postal Service closures and consolidations on the employment of preference-eligible veterans within the Postal Service. Reports must be issued annually for five years.

Sec. 105. Implementation of closures and consolidations

Closures and consolidations recommended by the CPR must be completed within two years of the submission of the relevant plan to Congress. Congress may prevent the implementation of all recommendations in a CPR Final Report if a Joint Resolution of disapproval is enacted within thirty days of the submission of a plan to Congress.

Sec. 106. Congressional consideration of final CPR Reports

Provides for the construction of a Joint Resolution of disapproval and sets the terms for the debate and consideration of such a resolution.

Sec. 107. Nonappealability of decisions

Provides that the closure or consolidation of a facility carried out as a result of this Act shall not be subject to appeal to the PRC or the subject of an advisory opinion issued by the PRC. Exempts all processes, reports, recommendations, and other actions by the CPR from judicial review.

Sec. 108. Rules of construction

Expressly allows the Postal Service to continue the closing or consolidation of any existing postal facilities in accordance with non-CPR authority before, during, and after CPR activity.

Sec. 109. GAO study and report

Requires the Comptroller General to conduct a study of the effect on the unemployment rate of minority communities of the proposed closures and consolidations of postal facilities under this subtitle. Requires the Comptroller General to submit a report on the findings of the study within one year of enactment.

Subtitle B—Other Provisions

Sec. 111. Implementation of discretionary non-mail delivery days

Amends section 404 of title 39 to allow the Postal Service to select up to twelve non-mail holidays per year in any year for which six-day delivery is otherwise required. The Postal Service must submit the requested days to the Postal Service Board of Governors. The days may not be: Sundays, legal public holidays, or within the thirty-day period prior to a general election for Federal office.

Allows the Postal Service to submit a proposal under section 3661 of title 39 for a nationwide change in service to reduce mail delivery from six to five days per week not less than six months after enactment. The Postal Service is required to maintain six-day delivery service until ninety days after the rendering of an advisory opinion on five-day delivery by the Postal Regulatory Commission. After such period, the Postal Service may adopt five-day delivery as the standard mail delivery schedule.

Sec. 112. Efficient and flexible universal postal service

Removes a Postal Service prohibition on closing a post office solely for operating at a deficit.

Requires the Postal Service to provide effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining.

Reduces the deadline for PRC review of post office closures from 120 days to sixty days.

Excludes any post office from the PRC appeals process if a contract postal unit (CPU) is opened within two miles of the applicable post office. Any exclusion must take place on a one-for-one basis. The CPU must be opened within fifteen days of the post office's closure and must stay open for a minimum of two years. If the CPU is closed before the end of a two-year period, an appeal may be made to the PRC for the reopening of the post office.

Expedites PRC advisory opinions concerning Postal Service plans to close or consolidate post offices on a level affecting service on a nationwide basis and on matters that are substantially identical to matters on which the PRC has issued an opinion within the preceding five years.

Sec. 113. Enhanced reporting on Postal Service efficiency

Requires the Postal Service to use a PRC-recommended formula to determine changes in Postal Service productivity and the resulting effect on overall costs.

Sec. 114. Applicability of procedures relating to closures and consolidations

Defines "post office" in subsection 404(d) of title 39 as any Postal Service operated retail facility as described by section 102(2) of this bill, which includes post offices, branches, and stations. This change is effective sixty days after enactment.

TITLE II—POSTAL SERVICE FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

Subtitle A—Establishment and Organization

Sec. 201. Purposes

States the purposes of the title. The purposes include eliminating Postal Service budget deficits, protecting the universal service mandate during a period of fiscal emergency, determining the fiscal status and operational efficiency of the Postal Service, helping the Postal Service to implement necessary rightsizing and to meet all fiscal obligations, providing a temporary increase in borrowing authority to fund restructuring, and ensuring the long-term vitality of the Postal Service.

Clarifies that nothing in this title may be construed as relieving any existing obligations of the Postal Service or limiting the authority of Congress to exercise ultimate legislative authority over the Postal Service.

Sec. 202. Establishment of the Authority

Creates the "Postal Service Financial Responsibility and Management Assistance Authority," an entity referred to in the bill as the "Authority."

Defines a Control Period as any period where the Postal Service is in default to the Federal Government for more than thirty days. Upon the commencement of a Control Period, the Authority is established. The Authority immediately takes over all roles and responsibilities of the Postal Service Board of Governors and becomes the top management agent of the Postal Service. For the remainder of a Control Period, the Board of Governors may act only in an advisory capacity.

For the purposes of the first Control Period, an advisory period is put into effect upon triggering of the Control Period. During the advisory period the Authority is constituted, but operates exclusively in an advisory capacity for two full fiscal years. At the completion of the second full fiscal year, or any year thereafter during the first Control Period, if the Postal Service annual deficit is greater than $2,000,000,000, the Authority shall be given full control over the Postal Service. During an advisory period, the Authority may not employ staff and the Postal Service is ordered to designate a Level-Two Postal Service Executive as a liaison with the members of the Authority.

During an advisory period, any provision of this title requiring action on the part of the Postal Service or the Authority shall be delayed. Should the Authority be given full control due to the Postal Service's failure to make sufficient budgetary progress, the Control Period (excluding limitations specific to the advisory period) shall be deemed to have started on the date of the Authority's assumption of power. Also, during an advisory period, the Postal Service is authorized to access funds made available under section 222 without the approval of the Authority. Whether or not the Authority takes full effect, the process for ending a Control Period must be completed.

Provides that during the length of a Control Period, Postal Service senior executives are ineligible for any deferred compensation or bonus and that, notwithstanding any employment contracts, they serve at the pleasure of the Authority.

Provides for the termination of a Control Period once the following requirements are satisfied: (1) two consecutive years of profit; (2) an Authority-approved budget forecast showing profits for the next three fiscal years; and (3) a financial plan that repays any supplemental debt acquired via section 222 of this title and properly funds employee pensions and retiree health benefits. The Authority must certify that these requirements are satisfied with the concurrence of the Secretary of the Treasury and the Director of the Office of Personnel Management.

Sec. 203. Membership and qualification requirements

Sets up the Authority as a five-member panel appointed by the President. One member each shall be recommended by the following: the Speaker of the House, the Majority Leader in the Senate, the Minority Leader in the House, the Minority Leader in the Senate, and the Comptroller General of the United States. Authorizes the President to designate one member as Chair. No more than three members may be of the same political party and it is the sense of Congress that the President shall appoint all members within thirty days of the commencement of a Control Period.

Provides for an initial appointment for members of three years. The subsequent terms are staggered before returning to three-year terms for all future appointments to ensure that no more than two members are appointed in any one year. Members are to serve without pay, but are eligible for reimbursement of reasonable and necessary expenses incurred due to service with the Authority. No member may be representative of specific interests using the Postal Service. Any individual who has worked for the Postal Service or the PRC in the five years preceding any potential appointment to the Authority is disqualified from being a member.

Sec. 204. Organization

Provides for the adoption of by-laws for Authority business.

Identifies actions that require a majority vote of the members of the Authority: (1) approval or disapproval a Postal Service financial plan; (2) implementation of recommendations authorized by section 226; (3) removal of a senior Postal Service executive; and (4) initiation of the establishment of a new workers' compensation program.

Sec. 205. Executive director and staff

Allows for the appointment of an Executive Director and staff of the Authority. Allows the Authority to appoint the Executive Director and staff of the Authority without regard to title 5 competitive service requirements and compensate such individuals without regard to General Schedule pay rates. Allows staff from other federal agencies to be detailed to the Authority on a reimbursable or non-reimbursable basis.

Sec. 206. Funding

Sets the maximum funding level for the Authority at $10 million per year, to be appropriated from the Postal Service Fund. Requires the Authority to include a budget of its expenses within the Postal Service's annual budgetary submission to Congress.

Subtitle B—Powers of the Authority

Sec. 211. Powers

Authorizes an agent or member of the Authority to take an action which the Authority is authorized to take, upon the approval of the Authority.

Requires the Postal Service to grant the Authority access to any records, documents, or data the Authority believes it needs to carry out its duties.

Allows the Authority to accept, use, and dispose of gifts for the purpose of aiding or facilitating the work for the Authority.

Allows the Administrator of General Services to provide support services to the Authority on a reimbursable basis, upon the request of the Authority.

Authorizes the Executive Director (subject to the approval of the Chair of the Authority) to enter into such contracts as necessary to carry out the duties of the Authority.

Authorizes the Authority to seek judicial enforcement of its authority to carry out its duties under this title.

Subjects to administrative discipline those Postal Service employees who by action or inaction fail to comply with an order of the Authority.

Expresses the sense of Congress that in making determinations that affect prior collective bargaining agreements, or any form of restructuring that reduces the workforce, the Postal Service shall ensure that employees receive the full benefits to which they are entitled.

Sec. 212. Exemption from liability for claims

Exempts the Authority and its members from any liability for any obligation of, or claim against, the Postal Service resulting from actions taken as a result of this title.

Sec. 213. Treatment of actions arising under this title

Establishes jurisdiction for petitions against actions of the Authority in the Court of Appeals for the District of Columbia Circuit. Requires the petition to be filed within thirty days after the applicable order or decision. Limits judicial review to whether the Authority acted in excess of its statutory authority.

Allows an appeal to the Supreme Court of a decision of the Court of Appeals if the appeal is filed within ten days of the decision.

Prohibits declaratory or injunctive relief against the Authority during the pendency of the action before a court.

Indicates that it shall be the duty of the Court of Appeals for the District of Columbia and the Supreme Court of the United States to advance and expedite to the greatest possible extent any matter brought under this section.

Sec. 214. Delivery point modernization

Requires the Postal Service to convert 75 percent of addresses currently receiving door delivery of mail to curbside delivery or clusterbox delivery within two years of the initiation of a Control Period fully in effect without the limitations of the advisory period specified in section 202. Requires a minimum savings of $3.5 billion annually from such transition. Requires 90 percent of door delivery points be converted to curb or clusterbox delivery within four years of the initiation of a Control Period that is fully in effect.

In determining which areas shall continue to receive door delivery, the Postal Service shall consider poverty rates, population density, and whether a locality is in a registered historic district or on the National Register of Historic Places.

Establishes clusterbox delivery as the default delivery form for new addresses, with curbside to be used where clusterbox delivery is impractical.

Provides for a hardship waiver for individuals with physical hardships. Also authorizes the Postal Service to create a voucher program to defray conversion costs incurred by postal customers. Eligibility is to be based on criteria determined by the Postal Service. Funding for the program may be provided by the Postal Service Competitive Products Fund.

Subtitle C—Establishment and Enforcement of Financial Plan and Budget for the Postal Service

Sec. 221. Development of financial plan and budget for the postal service

Requires the Postmaster General to submit a financial plan to the Authority for each fiscal year during a Control Period. The financial plan must include the Congressional budget submission, cash flow forecasts, a breakdown of estimations and significant assumptions, and any other criteria the Authority requires.

Requires that in the second full fiscal year and each subsequent fiscal year of a Control Period, budgeted revenues shall exceed budgeted expenses. Also requires that the Postal Service make significant progress toward long-term fiscal solvency in each period and include a plan for paying off any supplemental debt accrued under section 222.

Sec. 222. Supplementary borrowing authority during a control period

Authorizes supplemental borrowing authority of the Postal Service in the amount of $10 billion during a Control Period. This authorization expires after ten years, at which time the Postal Service is required to dispose of sufficient real property assets to repay any obligation still outstanding from this borrowing authority. Any amounts received by the Postal Service under this section shall be deposited in the Postal Service Fund.

All borrowing that takes place as a result of this section must be approved by the Authority, except as provided under section 202, and the Postal Service must provide an appropriate level of Postal Service property assets as collateral for any funds received under this section.

Requires that for each fiscal year in which any supplemental funds are outstanding, the Postal Service dispose of real property of sufficient value to repay at least ten percent of the total outstanding balance.

Sec. 223. Process of submission and approval of financial plan and budget

Describes the process for the approval of the financial plan and budget required by section 221.

Requires the Postmaster General to develop a preliminary financial plan and budget by February 1 and a final budget by August 1 of each year. The Authority may approve or disapprove of the budget based on whether it satisfies the requirements of section 221. If it disapproves the budget, the Postmaster General shall submit a revised plan. If the revision is also disapproved, the Authority is required to amend the plan so as to satisfy section 221. Requires the Authority to submit an approved financial plan and budget by September 30 of each year.

Provides for a process for the Postmaster General to submit revisions to the financial plan throughout the year.

Sec. 224. Responsibilities of the authority

Requires the Authority to use its powers to determine overall strategies, organizational structure, senior management staffing, major policies, budgets, capital projects, rate changes, and new products for the Postal Service. It is also responsible for approving annual Postal Service reports; formulating positions on postal public policy matters before Congress; ensuring overall responsiveness to Congress, the PRC and the rest of the Federal Government; and carrying out all responsibilities of the Board of Governors.

Requires the Postmaster General to submit to the Authority all proposals that substantially impact the aforementioned responsibilities. Allows the Authority to approve, deem approved, deny, or deny and recommend changes to any proposal.

Requires the Authority to examine all senior Postal Service management contracts and collective bargaining agreements in effect at the commencement of a Control Period. If any senior management contract is not in accordance with the fiscal plan of the Postal Service, the Authority is directed to take actions within its powers to revise the contract.

Sec. 225. Effect of finding noncompliance with financial plan and budget

Requires the Postmaster General to file quarterly revenue and expense reports with the Authority. If the quarterly results vary from the financial plan, a revision to the plan or remedial action to correct the variance is required.

Sec. 226. Recommendations regarding financial stability, etc.

Authorizes the Authority to make recommendations to the Postmaster General and Congress concerning actions that could be taken to ensure compliance by the Postal Service with its financial plan. Includes a list of areas of potential recommendations.

For Authority recommendations the Postal Service may adopt on its own, requires the Postmaster General to indicate within ninety days of receipt of the recommendations whether the recommendations will be adopted. If the Postmaster General declines to implement the recommendations, the Authority may, by a majority vote, implement the recommendations.

Sec. 227. Special rules for fiscal year in which control period commences

Provides for an abbreviated process to adopt a transition budget to act as a financial plan until one is approved under the process described in section 223.

Sec. 228. Assistance in achieving financial stability, etc.

Authorizes the Authority to undertake cooperative efforts to assist the Postal Service in addition to the actions identified elsewhere, including making recommendations to change federal law in a manner that would assist the Postal Service in achieving financial sustainability.

Sec. 229. Obtaining reports

Authorizes the Authority to require the Postal Service or the USPS IG to prepare any reports the Authority considers appropriate to carry out its duties.

Sec. 230. Reports and comments

Requires the Authority to submit to Congress annual reports on its actions, and on the progress of the Postal Service in returning to solvency.

Requires the Authority to review all annual reports the Postmaster General files with Congress and the PRC, and to submit a report to Congress analyzing each report's accuracy and completeness.

Authorizes the Authority to report to Congress on any action taken by the Postal Service contrary to recommendations of the Authority that are likely to have a significant adverse impact on the finances of the Postal Service.

Authorizes the Authority to report to Congress and the President on the impact of newly enacted statutes on the financial plan of the Postal Service.

Requires any report submitted under this section to be made publicly available electronically, except for information the Authority deems confidential.

Subtitle D—Termination of a Control Period

Sec. 231. Termination of a control period, etc.

Upon the completion of the requirements to end a Control Period described in section 202, the Authority is required to submit a recommendation to Congress to terminate the Control Period, disband the Authority, and return control of the Postal Service to the Board of Governors. A Joint Resolution must be approved by Congress within thirty days of the Authority's recommendation in order that the Control Period be terminated.

Sec. 232. Congressional consideration of recommendation

Provides for the terms of a Joint Resolution to end a Control Period and establishes rules of consideration of the resolution in each chamber.

TITLE III—POSTAL SERVICE WORKFORCE

Subtitle A—General Provisions

Sec. 301. Modifications relating to determination of pay comparability

Clarifies existing postal pay comparability standards to refer to total compensation and the entire private sector.

Sec. 302. Limitation on postal contributions under FEGLI and FEHBP

Places a cap on the portion of employees' health and life insurance premiums that the Postal Service can pay. The cap is the level that the Federal Government pays on behalf of the broader federal workforce, as defined in title 5. The requirement is phased in so that it applies to non-bargaining postal employees in 2013 and for bargaining employees at the beginning of the first fiscal year after which applicable contracts in effect in 2013 expire.

Sec. 303. Repeal of provision relating to overall value of fringe benefits

Repeals a provision requiring the overall value of fringe benefits to be equal to that of fringe benefits available in 1971.

Sec. 304. Applicability of reduction-in-force procedures

Prospectively prohibits Postal Service collective bargaining agreements from containing provisions that restrict the use of title 5 reduction-in-force procedures.

Requires any collective bargaining agreement ratified prior to date of enactment to be renegotiated within 9 months of the date of enactment if the agreement includes any restrictions on the Postal Service's ability to use title 5 reduction-in-force procedures.

Authorizes the Postal Service and a union to agree to additional forms of reduction-in-force procedures other than those specified in title 5. Such non-title 5 procedures are explicitly banned from inclusion in any collective bargaining agreement without the consent of the applicable union.

Sec. 305. Modifications relating to collective bargaining

Reforms the collective bargaining process to contain a mediation-arbitration process with a defined timeline modeled after recommendations of the 2003 President's Commission on the Postal Service. Creates an arbitration board of three neutral individuals. Any arbitration award is required to take into account both pay comparability with the private sector and the financial condition of the Postal Service. Further, once the arbitration stage has been reached, any agreement reached by the Postal Service and a union independent of the arbitration panel must also satisfy these same requirements. If such an agreement fails to do so, the arbitration panel is required to amend the agreement in a manner that does satisfy the requirements.

Sec. 306. One-time transfer of net surplus postal retirement contributions

Calculates a combined Postal Service pension surplus by subtracting from any projected FERS surplus any projected CSRS deficit and further subtracting the value of any FERS payments the Postal Service has failed to make. Any resulting surplus is immediately transferred to the Postal Service.

The transferred funds are made available for such purposes as the Postal Service considers appropriate. If transferred funds remain by 2015, however, the Postal Service must use the funds to pay off any extant Postal Service FERS or CSRS pension liability, or to pay down Postal Service debt. Expresses the sense of Congress that the Postal Service should use any funds made available under this section for separation incentives for postal employees.

Subtitle B—Postal Service Workers' Compensation Reform

Sec. 311. Postal Service workers' compensation reform

Following written notification by the Authority established under section 202, the Postmaster General is to establish a workers' compensation program for Postal Service employees. The program, developed in consultation with employee representatives, must transition postal employees receiving workers' compensation to retirement benefits when the employees reach retirement age, and may not provide augmented compensation for dependents. The Postal Service must provide the Congressional committees of jurisdiction with a detailed description of the program, and publish such information in the Federal Register no later than nine months following the Authority's aforementioned written notification.

TITLE IV—POSTAL SERVICE REVENUE

Sec. 401. Adequacy, efficiency, and fairness of postal rates

Each market-dominant product must cover its costs, while maintaining the statutory price cap based on the Consumer Price Index.

Rates for any market-dominant class of mail covering less than ninety percent of costs must, after a two-year delay, increase annually at a rate of two percent above the rate of inflation.

Requires the PRC to conduct a study during the two-year delay period to determine the impact of Postal Service excess capacity on attributable costs of loss-making classes of mail, and to factor this impact into their costs for the purposes of the rate adjustments required by this section. Market-dominant classes include First-Class Mail, Standard Mail (mainly advertising), Periodicals (mainly magazines and newspapers), and Package Services (mainly single-piece Parcel Post, Media Mail, library mail, and bound printed matter). Rates for any market-dominant class that does not cover 100 percent of its costs must be established so as to maximize incentives to reduce costs and increase efficiency.

Sec. 402. Repeal of rate preferences for qualified political committees

National and state political committees are made ineligible for rate preferences that are received by nonprofit organizations.

Sec. 403. Rate preferences for nonprofit advertising

Effective the first day of the first calendar year beginning three years after enactment, the discount for nonprofit advertising is reduced by two-percent annually, until the current forty percent discount off the most closely corresponding commercial rate is reduced to twenty percent.

Sec. 404. Streamlined review of qualifying service agreements for competitive products

The Postal Regulatory Commission (PRC) is required to conduct streamlined after-the-fact review of new negotiated service agreements for competitive products if they are functionally equivalent to existing agreements that have collectively covered costs and improved the Postal Service's net financial position.

Sec 405. Submission of service agreements for streamlined review

The Postal Service Board of Governors is given the flexibility to delegate to the Postmaster General the submission to the PRC of qualifying negotiated service agreements in section 404.

Sec. 406. Transparency and accountability for service agreements

Each group of functionally equivalent negotiated service agreements, including those covering market-dominant and competitive products, is required to cover its costs and improve the Postal Service's net financial position. This section is intended to ensure that these agreements will cover costs and improve the Postal Service's net financial position.

Sec. 407. Nonpostal services

Creates a new Chapter, 37—Nonpostal Services, in title 39:

§3701. Purpose—The purpose of this section is to enable the Postal Service to increase its net revenues through specific nonpostal products and services expressly authorized by law. Postal Service revenues and expenses for these specific nonpostal products and services are required to be funded through the Postal Service Fund.

§3702. Definitions—This section defines key terms. One key term, "nonpostal services," is defined as specific nonpostal services that are expressly authorized by this legislation and that are not postal products or services.

§ 3703. Postal Service Advertising Program—The Postal Service is authorized under this section to establish and manage a program that allows entities to advertise at its facilities and on its vehicles, provided that the advertising is consistent with the integrity of the Postal Service, covers at least 200 percent of its costs, and is subject to the PRC's annual compliance review. The Postal Service must publicly disclose expenditures and revenues for this program in its Annual Reports.

§ 3704. Postal Service Program for State Governments—This section authorizes the Postal Service to establish a program to provide services for State agencies, subject to safeguards to ensure that these services provide enhanced value to the public, do not interfere with or detract from the value of postal services, and provide a reasonable contribution to Postal Service overhead costs by covering at least 150 percent of costs. To provide transparency and an opportunity for stakeholder input, the Postal Service is required to publish its business plan for State services it plans to offer, followed by a public comment period and a published Postal Service response. At least two-thirds of the presidentially-appointed Postal Service Governors must approve of USPS providing specific State services by a publicly recorded vote.

§ 3705. Postal Service Program for Other Government Agencies—The Postal Service is authorized to continue providing property and services for other federal agencies and the Government Printing Office, provided it receives reimbursement covering 100 percent of its costs. This cost-coverage requirement is intended to ensure that ratepayers do not subsidize services provided for other federal agencies.

§ 3706. Transparency and Accountability for Nonpostal Services—The Postal Service must annually report financial results, rates, and the quality of its nonpostal services within ninety days after the end of each fiscal year, with proprietary data protected from disclosure. The PRC must annually review compliance that nonpostal services meet cost-coverage and other requirements; order remedial action to remedy any noncompliance; and can initiate proceedings to improve data quality and completeness. The Postal Service IG must regularly audit applicable data collection systems and procedures. These provisions are modeled after existing provisions for market-dominant products.

Clarifies that all nonpostal services continued pursuant to 404(e) of title 39 are considered expressly authorized by chapter 37 of title 39 and are subject to the same transparency and accountability requirements as other nonpostal services.

Sec. 408. Reimbursement of Alaska bypass mail costs

Requires the State of Alaska to reimburse the Postal Service for the expenses incurred in excess of revenue in providing Alaska bypass mail as required under section 5402 of title 39. Alaska is required to pay twenty percent of the full cost in the first year, and an additional twenty percent each year until 100 percent cost coverage is attained. The PRC is required to calculate the costs to be reimbursed. The PRC has previously estimated these costs as part of its annual report on the estimated costs to the Postal Service of providing universal service. Its most recent report estimated that bypass mail cost the Postal Service $121 million in FY2009, the most recent data available.

Sec. 409. Appropriations modernization

Eliminates a provision in law allowing the Postal Service to ask for a public service taxpayer subsidy and eliminates two other provisions that constitute the last remaining direct taxpayer expenditures in support of the Postal Service.

Sec. 410. Retiree health care benefit payment deferral

Defers $4,500,000,000 of the Postal Service's retiree health prefunding payment of $5,500,000,000 for fiscal year 2011. The retiree health prefunding payment sums scheduled for fiscal year 2015 and 2016 are each increased by $2,250,000,000.

TITLE V—POSTAL CONTRACTING REFORM

Sec. 501. Contracting provisions

This section is intended to improve Postal Service contracting practices and reduce costs. Similar requirements are applied to the PRC.

§ 701. Definitions—Terms used in this title are defined. "Postal contract" is defined as any contract for the procurement of goods or service, including any agreement or memorandum of understanding entered into by the Postal Service or the PRC. As applied to the PRC, postal contracts are defined as those in excess of the Simplified Acquisition Threshold, currently $150,000.

§ 702. Advocate for competition—The Postal Service and PRC must establish competition advocates responsible for promoting the contracting out of functions that the private sector can perform equally well or better and at lower cost. The competition advocates are to promote competition to the maximum extent practicable consistent with obtaining best value, and to review procurement activities. Each competition advocate must report annually on initiatives to promote outsourcing and competition, and on any existing barriers. Currently, there are no statutory requirements for any officers of these organizations to seek any level of competition.

§ 703. Delegation of contracting authority—The Postal Service and PRC must issue policies on contracting officer delegations of authority. Any delegation of authority for postal contracts outside the functional contracting unit must be made readily available and accessible on its website. No excuses policies clearly establish responsibility and accountability for postal contracts. A contracting officer is required to maintain an awareness of and engagement in the activities being performed on all postal contracts of which that officer has cognizance, including contracts involving delegations of authority. The senior procurement executive is given ultimate responsibility and accountability for the award and administration of postal contracts.

§ 704. Posting of noncompetitive purchase requests for noncompetitive contracts—The Postal Service must publicly post the noncompetitive purchase request for any noncompetitive award for postal contracts of at least $250,000, with this amount adjusted annually based on inflation. These postings are subject to proprietary information exceptions and competitive disadvantage waivers. The

PRC must post noncompetitive purchase requests of at least $20,000.

§ 705. Review of ethical issues—Ethics officials at the Postal Service and PRC are required to review any ethical issues relating to a proposed contract before it is awarded and advise the contracting officer on their appropriate resolution.

§ 706. Ethical restrictions on participation in certain contracting activity—The Postal Service and PRC are required to establish regulations that limit contracting officers from entering into a postal contract with any party with whom the contracting officer has a personal or business relationship, as defined in the Standards of Ethical Conduct for Employees of the Executive Branch. The heads of these entities may grant waivers for contracts in their respective organizations, but such waivers must be posted on their respective websites. They also may void any contract and recover amounts expended under the contract in any cases where there is a final conviction of bribery or conflict of interest.

Sec. 502. Technical amendment to definition

Corrects a technical amendment made in the 2006 amendments to the Contract Disputes Act that inadvertently deleted the Postal Service and PRC from the definition of executive agencies covered by this act. This correction will resolve any ambiguity and clarify that that Act applies to the Postal Service and the PRC, as it has since its enactment in 1978.

EXPLANATION OF AMENDMENTS

The following amendments were offered to the Ross amendment in the nature of a substitute during consideration of H.R. 2309 by the full committee on October 13, 2011:

Rep. Lankford offered an amendment reducing from $5.5 billion to $1 billion the statutorily required fiscal year 2011 payment to prefund Postal Service retiree health benefits. To recoup this deferral, the amendment requires the Postal Service pay an additional $2.25 billion in prefunding in both fiscal years 2015 and 2016. The deferral is designed to give the Postal Service an opportunity to implement the reforms in H.R. 2309, enabling it to make all future payments. The amendment was agreed to by voice vote.

Rep. Cummings offered an amendment to strike the text of the bill and insert the text of the Innovate to Deliver Act, H.R. 2967. This amendment would have broadly authorized the Postal Service to offer non-postal services, established a Chief Innovation Officer, required postal rates to be raised so as to cover all costs, and revised the retiree health care prefunding schedule, among other provisions. The amendment was defeated by a vote of 16–17.

Rep. Ross offered an amendment establishing a two-year delay to ensure proper cost attribution for underwater classes of mail. It stipulates that, after the two year delay, rate hikes of two-percent above inflation are implemented annually until these classes reach a minimum of ninety-percent cost coverage. The amendment was agreed to by voice vote.

Rep. Lynch offered an amendment to strike the text of the bill and insert the text of H.R. 1351. This amendment would have reallocated approximately $50–$75 billion in postal worker pension liability from the Postal Service to the taxpayer, using these reallocated funds to pay down the unfunded retiree health care liability. The amendment was defeated by a vote of 17–20.

Rep. Chaffetz offered an amendment allowing the Postal Service to immediately deem twelve days per year as “non-mail” delivery days as long as six-day delivery is the standard mail delivery. The amendment authorizes the Postal Service to file, six months after enactment, an advisory opinion request with the Postal Regulatory Commission (PRC) to shift to five-day delivery. The PRC will have no more than ninety days to file its advisory opinion, and ninety days after the release of the opinion the Postal Service will be allowed to move to five-day delivery service. The amendment was agreed to by voice vote.

Rep. Clay offered an amendment to strike a provision to the bill that would create an advocate for competition within the Postal Service. The amendment was defeated by a vote of 16–22.

Rep. Buerkle offered an amendment limiting to no more than ten percent the portion of post offices closed or consolidated by the CPR that can be small and rural post offices. Small and rural post offices are defined as those grouped under Cost Ascertainment Grouping K and L levels, the traditional groupings of small and rural post offices. This amendment was agreed to by a vote of 21–17.

Rep. Norton offered an amendment expressing the sense of Congress that in any postal reform effort, postal employees receive their full and proper pensions and benefits, and collective bargaining agreements are honored. The amendment was adopted by unanimous consent.

Rep. Chaffetz offered an amendment defining the term “economic savings” in section 211(g) to include savings achieved through the prevention of planned in-sourcing of activities currently contracted out by the Postal Service. The amendment was agreed to by voice vote. Although this amendment was accepted, the provision of the bill this amendment modified (section 211(g)) was removed from the bill text as a result of the Meehan Amendment; therefore, the text of this amendment is not included in the final text of the reported legislation.

Rep. Norton offered an amendment to strike subsection 112(c) of the bill and insert provisions substituting a different method than the one in the base bill for providing alternative access to postal services. The amendment was defeated by a vote of 16–22.

Rep. Meehan offered an amendment making several substantive changes to the bill. It requires any future collective bargaining agreements entered into by the Postal Service to authorize its use of title 5 reduction-in-force procedures. It requires the renegotiation of any extant collective bargaining agreement prohibiting the use of title 5 reduction-in-force procedures with respect to any bargaining unit members.

The amendment stipulates that the solvency Authority will initially be activated in an advisory capacity only for two years. If the Postal Service fails to reduce its deficit to less than $2 billion within two years, the Authority goes into full effect, assuming operational control of the Postal Service. In any subsequent year when a control period is still in effect, if the Postal Service deficit exceeds $2 billion, the Authority immediately assumes operational control. The $2 billion includes all operating losses, including those attributable to workers' compensation and retiree health care prefunding obligations.

Under the advisory period created by the amendment, the Postal Service may access the collateralized loan described in the base bill. The loan is subject to the same terms and conditions as if the Authority were in full effect.

The amendment deletes the Authority's power to alter collective bargaining agreements, since, under the amendment, the granting of such powers is unnecessary to ensure the Postal Service will possess reduction-in-force authority.

The amendment also returns any combined Postal Service pension surplus to the Postal Service to use as it deems fit. It expresses the sense of Congress, however, that the money be used for workforce reduction. In calculating a Postal Service pension surplus, the amendment considers both any extant Postal Service FERS surplus and any extant Postal Service CSRS deficit, as well as the required employer FERS payment contributions foregone by the Postal Service since June, 2011.

Rep. Platts offered a second degree amendment to the Meehan amendment explicitly authorizing postal unions to negotiate other forms of reduction-in-force authority as alternatives to the existing procedures authorized under title 5. This allows postal unions to negotiate to allow retirement conversion before resorting to the last-in-first-out method prescribed under title 5. The amendment does not, however, allow the imposition by arbitrators of a non-title 5 reduction-in-force process without the approval of the applicable union. The amendment was agreed to by voice vote. The Meehan amendment was agreed to by voice vote, as amended by the Platts amendment.

Rep. Connolly offered an amendment that would strike titles I, II, and III of the bill and insert provisions granting the PRC the authority to establish the level of retiree health care prefunding required of the Postal Service. In so doing, this amendment would transfer the responsibility of ensuring postal employee retiree health care benefits from the Office of Personnel Management to the Postal Regulatory Commission. The amendment was defeated by a vote of 17–22.

Rep. Turner offered an en bloc amendment incorporating the text of three different amendments.

The first amendment requires the Authority to submit within one year of its inception a savings report to Congress on the savings achieved through delivery point modernization. The report may recommend to Congress legislative changes concerning delivery point modernization.

The second amendment clarifies that, in the delivery point modernization section, whether a locale is in a "registered historic district" is a factor to be considered, and refers to one listed in the National Register of Historic Places.

The third amendment creates a contractor hiring preference by the Postal Service contractors for postal employees subject to a reduction in force under section 211. The preference would last for 78 weeks and would be open to individuals not fully retirement eligible at the time of their separation from the Postal Service. Although this amendment was accepted as part of the en bloc amendment, the provision of the bill this amendment modified (section

211(i)) was removed from the bill text as a result of Rep. Meehan's amendment; therefore the text of this amendment was not included in the final text of the reported legislation.

This amendment en bloc was agreed to by voice vote.

Rep. Davis offered an amendment to strike section 311 ("Postal Service Workers' Compensation Reform"). The amendment was withdrawn.

Rep. Davis offered an amendment to strike section 403 concerning nonprofit mail rates that was struck and replaced by unanimous consent with the text of Issa Amendment 105. Issa Amendment 105 allows for a three-year continuation of the current nonprofit rate preference. After the three-year period, the preference for non-profit advertising (currently calculated at forty percent, under the existing cost structure of the Postal Service) is reduced by two percent annually until it reaches twenty percent. The amendment was agreed to by voice vote.

Rep. Lankford offered an amendment allowing for the decisions to close Post Office Branches and Post Office Classified Stations to be appealed to the Postal Regulatory Commission. The amendment was agreed to by voice vote.

Rep. Towns offered an amendment requiring a GAO study on the effects of postal rightsizing on minority communities to be completed within 1 year. The amendment was agreed to by voice vote.

Rep. Murphy offered an amendment to strike subsections 211(g) and 211(i) and sections 304 and 305 of the bill. This amendment would remove all provisions of the bill that would allow the Postal Service the ability to rightsize its workforce and strike a modernized collective bargaining process for union contracts. The amendment was defeated by a vote of 17–22.

Rep. Murphy offered an amendment to strike section 112(c) of the bill and insert other language ("Reaffirmation of Public Appeal"). The amendment was withdrawn.

Rep. Braley offered an amendment to strike subtitle A ("Commission on Postal Reorganization") of title I of the bill, and to strike section 112 ("Efficient and Flexible Universal Postal Service") of the bill. The amendment was defeated by a roll call vote of 17–22.

Rep. Braley offered an amendment requiring the Commission on Postal Rightsizing to file a report to Congress on the employment impacts of the closure and consolidation recommendations the Commission makes. The report added by the amendment is to be made following the submission of the final report of the Commission described in the base bill. The amendment was agreed to by voice vote.

Rep. Yarmuth offered an amendment to strike section 409 of the bill. This amendment would delete from the bill the provisions eliminating from statute all existing authorizations of appropriations to the Postal Service. The amendment was defeated by a vote of 17–23.

Committee Consideration

On October 13, 2011, the Committee met in open session and ordered reported favorably the bill, H.R. 2309, as amended, by a recorded vote of 22 Ayes to 18 Nays, a quorum being present.

ROLLCALL VOTES

The following votes were taken during consideration of H.R. 2309 on October 13, 2011:

1. Mr. Cummings offered a substitute to the Ross ANS. The amendment was defeated by a recorded vote of 16 Ayes to 17 Nays.

Voting Aye: Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, and Murphy.

Voting Nay: Issa, Burton, Mica, Platts, Turner, McHenry, Chaffetz, Mack, Walberg, Lankford, Amash, Meehan, DesJarlais, Gowdy, Ross, Farenthold, and Kelly.

2. Mr. Lynch offered a substitute to the Ross ANS. The amendment was defeated by a recorded vote of 17 Ayes to 20 Nays.

Voting Aye: Platts, Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, and Murphy.

Voting Nay: Issa, Burton, Mica, Turner, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Gowdy, Ross, Farenthold, and Kelly.

3. Mr. Clay offered an amendment to the Ross ANS to strike part of Sec. 501 (Sec. 702. “Advocate for competition”). The amendment failed by a recorded vote of 16 Ayes to 22 Nays.

Voting Aye: Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, and Murphy.

Voting Nay: Issa, Burton, Mica, Platts, Turner, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Gowdy, Ross, Guinta, Farenthold, and Kelly.

4. Ms. Buerkle offered an amendment to the Ross ANS to add language at the end of Sec. 104 regarding limiting retail facilities identified for closure. The amendment was agreed to by a recorded vote of 21 Ayes to 17 Nays.

Voting Aye: Issa, Burton, Mica, Platts, Turner, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Gowdy, Ross, Guinta, Farenthold, and Kelly.

Voting Nay: Amash, Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, and Murphy.

5. Ms. Norton offered an amendment to the Ross ANS striking subsection (c) of Sec. 112 (“Efficient and Flexible Universal Postal Service”) and replacing it with new language. The amendment failed by a recorded vote of 16 Ayes to 22 Nays.

Voting Aye: Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, and Murphy.

Voting Nay: Issa, Burton, Mica, Platts, Turner, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Gowdy, Ross, Guinta, Farenthold, and Kelly.

6. Mr. Connolly offered an amendment to the Ross ANS to strike titles I, II, and III of the bill and insert a new title I. The amendment was defeated by a recorded vote of 17 Ayes to 22 Nays.

Voting Aye: Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, Murphy, and Speier.

Voting Nay: Issa, Burton, Mica, Platts, Turner, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Gowdy, Ross, Guinta, Farenthold, and Kelly.

7. Mr. Murphy offered an amendment to strike subsections (g) and (i) of section 211, and to strike sections 304 and 305 of the bill. The amendment was defeated by a recorded vote of 17 Ayes to 22 Nays.

Voting Aye: Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, Murphy, and Speier.

Voting Nay: Issa, Burton, Mica, Platts, Turner, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Gowdy, Ross, Guinta, Farenthold, and Kelly.

8. Mr. Braley offered an amendment to the Ross ANS to strike subtitle A ("Commission on Postal Reorganization") of title I of the bill, and to strike section 112 ("Efficient and Flexible Universal Postal Service") of the bill. The amendment was defeated by a recorded vote of 17 Ayes to 22 Nays.

Voting Aye: Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, Murphy, and Speier.

Voting Nay: Issa, Burton, Mica, Platts, Turner, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Gowdy, Ross, Guinta, Farenthold, and Kelly.

9. Mr. Yarmuth offered an amendment to the Ross ANS to strike section 409 ("Appropriations Modernization") of the bill. The amendment was defeated by a recorded vote of 17 Ayes to 23 Nays.

Voting Aye: Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, Murphy, and Speier.

Voting Nay: Issa, Burton, Mica, Platts, Turner, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Walsh, Gowdy, Ross, Guinta, Farenthold, and Kelly.

10. The bill, H.R. 2309, as amended, was favorably reported to the House, a quorum being present, by a recorded vote of 22 Ayes to 18 Nays.

Voting Aye: Issa, Burton, Mica, Turner, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Walsh, Gowdy, Ross, Guinta, Farenthold, and Kelly.

Voting Nay: Platts, Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, Murphy, and Speier.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill would restore the financial solvency of the United States Postal Service and ensure the efficient and affordable nationwide delivery of mail. As such this bill does not relate to employment or access to public services and accommodations.

Statement of Oversight Findings and Recommendations of the Committee

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

Statement of General Performance Goals and Objectives

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

Federal Advisory Committee Act

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

Unfunded Mandate Statement

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

Earmark Identification

H.R. 2309 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

Committee Estimate

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 2309. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

Budget Authority and Congressional Budget Office Cost Estimate

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2309 from the Director of Congressional Budget Office:

DECEMBER 1, 2011.

Hon. DARRELL ISSA,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2309, the Postal Reform Act of 2011.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 2309—Postal Reform Act of 2011

Summary: H.R. 2309 would change the laws that govern the operation of the United States Postal Service (USPS). Major provisions of the bill would:

- Permit the Postal Service to reduce mail delivery from six to five days per week;
- Transfer about $11 billion in surplus retirement contributions from the Civil Service Retirement and Disability Fund (CSRDF) to the Postal Service Fund;
- Reduce the contribution made by the Postal Service for employees' health nd life insurance premiums;
- Change the payments that the Postal Service is required to make to the Postal Service Retiree Health Benefits Fund (PSRHBF); and
- Eliminate annual appropriations made to the Postal Service for free and reduced rate mail.

In addition, other provisions of H.R. 2309 would aim to help the Postal Service reduce its costs and increase its income.

CBO estimates that enacting the bill would result in off-budget savings totaling $26.2 billion and on-budget costs of $7.7 billion over the 2012–2021 period. (USPS cash flows are recorded in the federal budget in the Postal Service Fund and are classified as off-budget, while the cash flows of the PSRHBF and CSRDF are on-budget.)

Combining those effects, CBO estimates that the net savings to the unified budget from enacting H.R. 2309 would be $18.5 billion over the 2012–2021 period. All of those effects reflect changes in direct spending. Enacting H.R. 2309 would not affect revenues. Pay-as-you-go procedures apply because enacting the legislation would increase on-budget direct spending.

In addition, CBO estimates that H.R. 2309 would affect spending subject to appropriation. Assuming that future appropriations for the Postal Service are reduced consistent with the bill's provisions, we estimate that implementing H.R. 2309 would yield discretionary savings of $880 million over the 10-year period.

H.R. 2309 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on some groups of mailers by increasing postage rates.

The bill also would impose an intergovernmental mandate on the state of Alaska by requiring the state to reimburse the USPS for costs it incurs to provide bypass mail service in Alaska. Assuming that the requirement on Alaska is enforceable, CBO estimates that the costs of complying with the intergovernmental mandates in the bill would exceed the annual threshold established in UMRA beginning in 2015. CBO projects that the intergovernmental threshold in 2015 will be $76 million, including adjustments for inflation.

CBO estimates that the costs to the private sector to comply with the mandates would fall below the annual threshold for private-sector mandates established in UMRA ($142 million in 2011, adjusted annually for inflation) in the first five years the mandates are in effect.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2309 is shown in Table 1. The costs of this legislation fall within budget functions 370 (commerce and housing credit) and 600 (income security).

Basis of estimate: For this estimate, CBO assumes that H.R. 2309 will be enacted before the end of calendar year 2011. The bill would affect outlays of the off-budget Postal Service Fund and the on-budget PSRHBF and CSRDF. CBO estimates that net savings to the unified budget would total $18.5 billion over the 2012–2021 period.

TABLE 1—SUMMARY OF BUDGETARY IMPACT OF H.R. 2309, THE POSTAL REFORM ACT OF 2011

	By fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2016	2012–2021
OFF-BUDGET CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	−5,450	−925	−2,300	−639	−765	−3,341	−3,280	−3,222	−3,166	−3,107	−10,079	−26,195
Estimated Outlays	−5,450	−925	−2,300	−639	−765	−3,341	−3,280	−3,222	−3,166	−3,107	−10,079	−26,195
ON-BUDGET CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	10,900	0	0	−2,250	−2,250	260	260	260	260	260	6,400	7,700
Estimated Outlays	10,900	0	0	−2,250	−2,250	260	260	260	260	260	6,400	7,700
UNIFIED BUDGET CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	5,450	−925	−2,300	−2,889	−3,015	−3,081	−3,020	−2,962	−2,906	−2,847	−3,679	−18,495
Estimated Outlays	5,450	−925	−2,300	−2,889	−3,015	−3,081	−3,020	−2,962	−2,906	−2,847	−3,679	−18,495
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	20	−100	−100	−100	−100	−100	−100	−100	−100	−100	−380	−880
Estimated Outlays	5	−85	−100	−100	−100	−100	−100	−100	−100	−100	−380	−880

Note: Positive numbers indicate increases in costs; negative numbers indicate reductions in costs.

OFF-BUDGET CHANGES IN DIRECT SPENDING (POSTAL SERVICE FUND)

CBO estimates that enacting H.R. 2309 would reduce net USPS spending by $26.2 billion over the 10-year period; such spending is classified as off-budget. Lower spending would result mainly from authorizing the Postal Service to reduce mail service from six days per week to five. Details of changes in spending from the Postal Service Fund are shown in Table 2 and discussed in the following subsections.

Reduction of Mail Delivery. H.R. 2309 would authorize the Postal Service to deliver mail five days per week, beginning in fiscal year 2013. As a result, the Postal Service expects that it would eliminate mail delivery on Saturdays. The Postal Service estimates that this reduction in service would result in net savings of $3.1 billion annually, mostly in personnel and transportation costs. The Postal Regulatory Commission (PRC) estimates that reduction of mail delivery from six to five days per week would save only $1.7 billion per year. The PRC estimates lower net savings largely because it disagrees with the Postal Service's assumption that most mail currently delivered on Saturdays could be delivered on Mondays with minimal increased costs. PRC's estimate therefore includes a bigger expected offset to the gross savings for eliminating Saturday deliveries.

TABLE 2—OFF-BUDGET CHANGES IN DIRECT SPENDING UNDER H.R. 2309

	By fiscal year, in millions of dollars 2012—										
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2021
Reduction of Mail Delivery:											
Estimated Budget Authority	0	−1,000	−2,000	−2,500	−2,500	−2,500	−2,400	−2,300	−2,200	−2,100	−19,000
Estimated Outlays	0	−1,000	−2,000	−2,500	−2,500	−2,500	−2,400	−2,300	−2,200	−2,100	−19,000
Transfer of Surplus Postal Retirement Contributions:											
Estimated Budget Authority	−10,900	0	0	0	0	0	0	0	0	0	−10,900
Estimated Outlays	−10,900	0	0	0	0	0	0	0	0	0	−10,900
USPS Changes in Spending:											
Estimated Budget Authority	5,450	0	0	0	0	0	0	0	0	0	5,450
Estimated Outlays	5,450	0	0	0	0	0	0	0	0	0	5,450
Limit Postal Contributions for Health and Life Insurance:											
Estimated Budget Authority	0	0	−350	−413	−529	−555	−584	−611	−640	−671	−4,353
Estimated Outlays	0	0	−350	−413	−529	−555	−584	−611	−640	−671	−4,353
Changes in Payments to the PSRHBF:											
Estimated Budget Authority	0	0	0	2,250	2,250	−260	−260	−260	−260	−260	3,200
Estimated Outlays	0	0	0	2,250	2,250	−260	−260	−260	−260	−260	3,200
Payment from the State of Alaska:											
Estimated Budget Authority	0	0	−25	−50	−76	−101	−126	−126	−126	−126	−882
Estimated Outlays	0	0	−25	−50	−76	−101	−126	−126	−126	−126	−882
Elimination of Annual Appropriations:											
Estimated Budget Authority	0	100	100	100	100	100	100	100	100	100	900
Estimated Outlays	0	100	100	100	100	100	100	100	100	100	900
Changes in Rates for Mail Services:											
Estimated Budget Authority	0	0	0	0	−15	0	−10	−25	−40	−50	−110
Estimated Outlays	0	0	0	0	−15	0	−10	−25	−40	−50	−110
Total Off-budget Changes:											
Estimated Budget Authority	−5,450	−925	−2,300	−639	−765	−3,341	−3,280	−3,222	−3,166	−3,107	−26,195
Estimated Outlays	−5,450	−925	−2,300	−639	−765	−3,341	−3,280	−3,222	−3,166	−3,107	−26,195

Note: PSRHBF = Postal Service Retiree Health Benefits Fund.

Based on the estimates prepared by USPS and the PRC, CBO estimates that reducing mail delivery from six to five days per week would save about $2.5 billion annually by fiscal year 2015 (roughly the midpoint of the USPS and PRC estimates). Estimated savings in 2013 and 2014 would be lower—about $1 billion and $2 billion, respectively—as the Postal Service increases efficiency under the new delivery system. Beginning in 2018, we expect that annual savings would gradually decline as those funds would likely be spent by the Postal Service or returned to mailers in the form of lower rates rather than accumulating as large annual surpluses in the Postal Service Fund. We estimate that annual savings would fall to $2.1 billion by 2021.

Transfer of Surplus Postal Retirement Contributions. Within two weeks of enactment, H.R. 2309 would transfer to the Postal Service Fund any surplus in the USPS Federal Employee Retirement Systems (FERS) account within the CSRDF as of September 30, 2010, less any required contributions to FERS that the Postal Service has not made during fiscal years 2011 and 2012. The amount transferred to the Postal Service Fund would also be reduced by the amount of any liability for USPS retirement contributions for employees enrolled in CSRS as of September 30, 2010.

The Office of Personnel Management (OPM) estimates that the Postal Service's surplus for its FERS account in the CSRDF was $10.9 billion as of September 30, 2010. According to OPM, there is a surplus—not a liability—for USPS retirement contributions for employees enrolled in CSRS as of September 30, 2010, so that calculation would not affect the amount transferred. The Postal Service stopped making FERS contributions in June 2011, but the agency expects to make any unpaid contributions in December 2011, so there would be no reduction to the amount transferred to the Postal Service Fund.

Therefore, under the bill, CBO estimates that $10.9 billion would be transferred from the CSRDF to the Postal Service Fund in fiscal year 2012. This transfer would be classified as a savings of $10.9 billion in off-budget direct spending for the Postal Service Fund in 2012. (This also would result in a cost of $10.9 billion to the on-budget CSRDF, as discussed below.)

USPS Changes in Spending. H.R. 2309 would permit the Postal Service to use the $10.9 billion transferred from the CSRDF for purposes that it considers appropriate. Based on information from the Postal Service, we expect that the agency would use the amount transferred to make payments to the PSRHBF, pay off its debt to the U.S. Treasury, fund employee buyout plans, or for other expenses.

We expect that use of those transfers would effectively lower the net expenses of the Postal Service by $10.9 billion in 2012; that reduction would lead the agency to modify its ongoing efforts under current law to reduce spending. Faced with an imbalance of receipts from postal customers and operational costs, the Postal Service has made significant efforts to reduce spending in recent years. For example, early in 2009, the Postal Service announced plans to cut spending by $5.9 billion over the 2009–2010 period. Just a few months later in response to worsening financial conditions, the agency accelerated the plan to cut $5.9 billion in 2009 alone. Since then, the Postal Service has announced the possibility of closing post offices, laying off employees, and making major reductions in service.

CBO expects that the transfer of $10.9 billion to the Postal Service would lead the agency to alter its cost-reduction program by cutting spending less aggressively than it would without the legislation. Thus, CBO anticipates that enacting this legislation would lead USPS to increase other expenses relative to current law. We estimate that this increase in other postal expenses would be about half of the $10.9 billion that would be transferred—$5.45 billion in 2012.

Limit Postal Contributions for Health and Life Insurance. Currently, the Postal Service pays 78.5 percent of the health insurance premiums and 100 percent of the life insurance premiums for most of its employees. H.R. 2309 would lower those employer contributions to about 70 percent for health insurance and 33 percent for life insurance. For employees covered by a collective bargaining agreement, the lower employer contributions would take effect after the expiration of the agreement. For other employees, the lower contributions would begin in fiscal year 2014.

In fiscal year 2011, the Postal Service paid about $4.8 billion for health insurance premiums and about $187 million for life insurance premiums for active employees. Based on those current payments, CBO estimates that the lower employer contributions in H.R. 2309 would save about $700 million in 2014, with potential savings growing to more than $1 billion by 2016 when all employees would be subject to this provision. For this estimate, CBO anticipates that some individuals who face lower employer contributions would either leave the Federal Employees Health Benefits (FEHB) program or switch to lower-cost plans.

However, as with the savings from the $10.9 billion transferred from CSRDF, we anticipate that enacting this provision would lead the agency to cut expenses less aggressively than it otherwise would and thereby lead to an increase in other postal expenses. For example, the Postal Service has sharply curtailed its capital spending in recent years and could apply savings from the lower employer contributions to enhancements in facilities or other postal infrastructure. CBO estimates that net savings to the Postal Service would be about half of the potential savings—about $350 million in 2014, $529 million by 2016, and $671 million by 2021.

Changes in Payments to the PSRHBF. Under current law, over the 2012–2016 period the Postal Service is required to make specified annual payments ranging from $5.6 billion to $5.8 billion to the PSRHBF, an on-budget account established by the Postal Accountability and Enhancement Act (Public Law 109–435) to prefund future retirees' health benefits. Beginning in 2017, the agency is required to make annual payments amortized over 40 years to liquidate the unfunded liability for retirees' health benefits. The unfunded liability is the total liability accrued to date for retirees' health benefits minus the PSRHBF balance; that is, the amount that has not been set aside to cover future liabilities.

H.R. 2309 would increase the specified payment to the PSRHBF for fiscal year 2015 from $5.7 billion to $7.95 billion and would increase the 2016 payment from 5.8 billion to $8.05 billion.

This provision would increase off-budget costs by $2.25 billion in both 2015 and 2016. In addition, OPM estimates that it would decrease the amortization payments required over the 2017–2021 period by about $260 million annually. (This also would result in savings in 2015 and 2016 and costs over the 2017–2021 period to the on-budget PSRHBF, as discussed below.)

Payments from the State of Alaska. H.R. 2309 would direct the state of Alaska, beginning in fiscal year 2013, to make annual payments to the Postal Service to cover the costs of providing certain mail service (known as "bypass mail") in the state provided by private air carriers. The amount of the payment for a full year would be estimated by the PRC. Under the bill's provisions, the state's first payment would be equal to 20 percent of the full-year estimate, with payments for each subsequent year growing by an additional 20 percent of the PRC estimate.

For this estimate, CBO assumes that USPS could enforce this requirement on the state, and that Alaska would make the payments as directed by the bill. Based on information from the PRC, CBO estimates that the payment to the Postal Service would be about $25 million in 2013, increasing to $126 million by 2017. (If the provision was found by courts to be unenforceable, we expect that USPS would continue to provide such services to customers in Alaska and that this provision of the bill would result in no savings to the Postal Service.)

Elimination of Annual Appropriations. H.R. 2309 would eliminate the annual appropriation to reimburse the Postal Service for delivery of free and reduced rate mail, including mail for overseas voting and mail for the blind. Based on the amounts appropriated in recent years, CBO estimates that this provision would replace discretionary spending of $100 million per year with direct spending from the Postal Service Fund, beginning in fiscal year 2013, assuming that future appropriations for the Postal Service are reduced consistent with this estimate. (Reductions in spending subject to appropriation are discussed below.)

Changes in Rates for Mail Services. H.R. 2309 would direct the Postal Service to gradually increase rates for nonprofit advertising mail, beginning no earlier than three years after the bill's enactment to equal 80 percent of the rate charged to deliver commercial advertising. The nonprofit rates are currently between 60 percent and 75 percent of the commercial rate. Because there is an annual cap on rate increases for each class of mail, raising rates for nonprofit advertising would require lowering rates for other mail products in the same class. Based on information from the Postal Service about the anticipated responses to price changes by users of nonprofit mail and other mail products in that class, we estimate that this provision would result in a net decrease in USPS revenues in 2016 of about $15 million but would increase revenues over the 2016–2021 period by $110 million. (USPS revenues are a credit against direct spending by the agency.)

The bill also would direct the Postal Service to set postage rates (within the annual cap on rate increases in current law) so that most types of mail products cover the costs attributable to them. In addition, H.R. 2309 would require the Postal Service to raise rates each year on those classes of mail with delivery costs that exceed revenues, beginning at the end of 2015. Those increases would depend on the outcome of a study to be prepared by the PRC in 2014 concerning excess capacity within USPS.

In general, the Postal Service aims to set rates to maximize total mail revenue. CBO anticipates that the Postal Service will continue to attempt to maximize revenue while decreasing costs although we cannot predict the extent to which revenue for certain classes of mail will cover their costs in 2015. (The PRC has already directed the Postal Service to increase the cost coverage for certain products.) It is unclear whether changing rates or reallocating price increases under the current cap on rate increases to ensure the cost coverage of certain products would significantly increase or decrease total revenue in the future.

ON-BUDGET CHANGES IN DIRECT SPENDING

CBO estimates that enacting H.R. 2309 would increase on-budget direct spending by $5.8 billion over the 2012–2021 period. Those costs result from changes in the cash flows of the CSRDF and the PSRHBF as shown in Table 3 and discussed in the following subsections.

TABLE 3—CHANGES IN DIRECT SPENDING FOR ON-BUDGET ACCOUNTS UNDER H.R. 2309

	By fiscal year, in millions of dollars—										
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2021
Transfer of Surplus Postal Retirement Contributions:											
Estimated Budget Authority	10,900	0	0	0	0	0	0	0	0	0	10,900
Estimated Outlays	10,900	0	0	0	0	0	0	0	0	0	10,900
Changes in Payments to the PSRHBF:											
Estimated Budget Authority	0	0	0	−2,250	−2,250	260	260	260	260	260	−3,200
Estimated Outlays	0	0	0	−2,250	−2,250	260	260	260	260	260	−3,200
Total On-budget Changes:											
Estimated Budget Authority	10,900	0	0	−2,250	−2,250	260	260	260	260	260	7,700
Estimated Outlays	10,900	0	0	−2,250	−2,250	260	260	260	260	260	7,700

Note: PSRHBF = Postal Service Retiree Health Benefits Fund.

Transfer of Surplus Postal Retirement Contributions. As discussed previously, H.R. 2309 would transfer to the Postal Service Fund any surplus in the USPS FERS account within the CSRDF as of September 30, 2010, with certain adjustments made to that amount. Based on information from OPM, CBO estimates that $10.9 billion would be transferred from the CSRDF to the Postal Service Fund in 2012. This transfer would increase on-budget spending from the CSRDRF by $10.9 billion in 2012.

Changes in Payments to the PSRHBF. As discussed previously, H.R. 2309 would increase the specified payment from the Postal Service to the PSRHBF from $5.7 billion to $7.95 billion for fiscal year 2015 and from $5.8 billion to $8.05 billion for fiscal year 2016.

By increasing receipts to the PSRHBF, this provision would decrease on-budget costs by $2.25 billion in both 2015 and 2016. In addition, OPM estimates that it would decrease the amortization payments paid to the PSRHBF by the Postal Service over the 2017–2021 period by $260 million annually (the reductions in payments would be recorded as on-budget costs).

OTHER PROVISIONS THAT COULD AFFECT DIRECT SPENDING

Several other provisions of H.R. 2309 could help the Postal Service in its efforts to lower costs; however, CBO has not estimated additional savings for those provisions because it is not clear that any such savings would exceed what we expect could be achieved under current law or under other provisions of the legislation.

The bill would: establish a commission to recommend closures and consolidations of postal facilities; direct arbitrators involved in future labor negotiations to consider the financial condition of the Postal Service when mediating disputes between USPS and its labor unions; and reform Postal Service contracting practices. Those provisions might reduce USPS costs, but CBO expects that any net savings probably would be indistinguishable from savings that could result from the Postal Service's current efforts to close facilities or negotiate more favorable labor contracts and improve procurement practices.

H.R. 2309 also would authorize the Postal Service to establish a program to allow advertising at USPS facilities and on USPS vehicles and a program to provide services for agencies of state governments or federal agencies for a fee. Implementing these programs would require the Postal Service to compete with the various media currently available to advertisers and to offer cost-effective alternatives for services to state or federal agencies. Those proposed programs might increase USPS revenues but also would add to costs. CBO has no information to predict the cost-effectiveness of such new ventures undertaken by the Postal Service.

Finally, under the bill, if the Postal Service were in default for more than 30 days to the U.S. Treasury with respect to any form of borrowing, or for any scheduled payments to any fund in the U.S. Treasury, the proposed Postal Service Financial Responsibility and Management Assistance Authority would be established. That new authority would be a new entity that would advise and potentially control the Postal Service. CBO cannot judge whether the new management entity would be more successful than the existing USPS management structure; however, because the bill would transfer an estimated nearly $11 billion to the Postal Service in 2012, CBO does not expect that USPS would be in a financial situation that required the new management authority to be created for the foreseeable future.

SPENDING SUBJECT TO APPROPRIATION

H.R. 2309 would authorize the appropriation of $20 million from the Postal Service Fund for the Commission on Postal Reorganization that would be established by the bill. The commission would evaluate and recommend potential closures and consolidations of postal facilities and carry out other duties. CBO estimates that the commission would spend about $5 million in fiscal year 2012 and about $15 million in 2013, assuming appropriation of the authorized amounts.

H.R. 2309 also would eliminate the annual appropriation to reimburse the Postal Service for the delivery of free and reduced rate mail, including overseas voting materials and mail for the blind. Based on the amounts appropriated in recent years, CBO estimates that this provision would save about $100 million per year, beginning in fiscal year 2013, assuming future appropriations for the Postal Service are reduced consistent with this estimate.

Pay-as-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table. (Enacting H.R. 2309 would not affect revenues.) Only on-budget changes to outlays or revenues are subject to pay-as-you-go procedures.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 2309, THE POSTAL REFORM ACT OF 2011, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM ON OCTOBER 13, 2011

	By fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2016	2012–2021
NET INCREASE OR DECREASE (−) IN THE ON-BUDGET THE DEFICIT												
Statutory Pay-As-You-Go Impact	10,900	0	0	−2,250	−2,250	260	260	260	260	260	6,400	7,700

Intergovernmental and private-sector impact: H.R. 2309 would impose intergovernmental and private-sector mandates, as defined in UMRA, on some groups of mailers and on the state of Alaska. Assuming that the requirement on Alaska is enforceable, CBO estimates that the costs of complying with the intergovernmental mandates in the bill would exceed the annual threshold established in UMRA beginning in 2015. CBO projects that the intergovernmental threshold in 2015 will be $76 million, including adjustments for inflation. CBO estimates that the costs to the private sector to comply with the mandates would fall below the annual threshold for private-sector mandates established in UMRA ($142 million in 2011, adjusted annually for inflation) in the first five years the mandates are in effect.

MANDATES THAT APPLY TO BOTH PUBLIC AND PRIVATE ENTITIES

H.R. 2309 contains intergovernmental and private-sector mandates because it would increase the postage rates for advertising paid by nonprofits and entities that mail agricultural periodicals three years after enactment. Based on the current postal price structure, an increase in the rates for standard nonprofit mailers would result in a decrease in the rates paid by standard commercial mailers. The net increase for standard mailers would total about $60 million over the first five years the mandates are in effect. (Nonprofit and commercial standard mailers include both public and private entities.) Because the bill would increase postage rates for governmental mailers, such as public libraries and schools, and would decrease costs for agencies of state and local governments that pay regular rates, CBO estimates that the net costs, if any, to public entities would be small.

MANDATE THAT APPLIES TO PUBLIC ENTITIES ONLY

The bill would impose an intergovernmental mandate on the state of Alaska by requiring the state to reimburse the USPS for costs it incurs to provide bypass mail service in Alaska. Bypass mail is mail that is prepared by a pre-qualified shipper and delivered directly to the recipient by a private air carrier. The USPS pays the private air carrier a set rate for the delivery. Assuming that the requirement on the state of Alaska to pay the reimbursement is enforceable, CBO estimates that the cost to the state would be about $25 million in 2013 and would increase to about $130 million by 2017.

MANDATE THAT APPLIES TO PRIVATE ENTITIES ONLY

In addition, the bill would increase the postage rate paid by national and state political committees by repealing their current discount. Based on information from the USPS, CBO estimates that the cost to those mailers would be small and would fall well below the annual threshold beginning the first year after enactment.

Estimate prepared by: Federal Costs: Julia Mitchell—FEHB Costs; Mark Grabowicz—All Other Costs. Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

TITLE 39, UNITED STATES CODE

* * * * * * *

PART I—GENERAL

PART I. GENERAL

CHAPTER 1—POSTAL POLICY AND DEFINITIONS

§ 101. Postal policy

(a) * * *

⟦(b) 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. 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.]

(b) The Postal Service shall provide effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining.

(c) As an employer, the Postal Service shall achieve and maintain compensation for its officers and employees comparable to the *total* rates and types of compensation paid in the *entire* private sector of the economy of the United States. It shall place particular emphasis upon opportunities for career advancements of all officers and employees and the achievement of worthwhile and satisfying careers in the service of the United States.

* * * * * * *

CHAPTER 4—GENERAL AUTHORITY

* * * * * * *

§ 403. General duties

(a) * * *

(b) It shall be the responsibility of the Postal Service—

(1) * * *

* * * * * * *

[(3) to establish and maintain postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.]

(3) to ensure that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.

* * * * * * *

§ 404. Specific powers

(a) * * *

* * * * * * *

(d)(1) * * *

(2) The Postal Service, in making a determination whether or not to close or consolidate a post office—

(A) shall consider—

(i) * * *

* * * * * * *

[(iii) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that 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;]

(iii) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b), that the Postal Service shall provide effective and

regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

*   *   *   *   *   *   *

(5) A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Regulatory Commission within 30 days after such determination is made available to such person under paragraph (3). The Commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The Commission shall make a determination based upon such review no later than ⟦120 days⟧ *60 days* after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings, and conclusions found to be—

(A) * * *

*   *   *   *   *   *   *

The Commission may affirm the determination of the Postal Service or order that the entire matter be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal. The provisions of section 556, section 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

*   *   *   *   *   *   *

(7)(A) The appeals process set forth in paragraph (5) shall not apply to a determination of the Postal Service to close a post office if there is located, within 2 miles of such post office, a qualified contract postal unit.

(B) For purposes of this paragraph—

(i) the term "contract postal unit" means a store or other place of business which—

(I) is not owned or operated by the Postal Service; and

(II) in addition to its usual operations, provides postal services to the general public under contract with the Postal Service; and

(ii) the term "qualified contract postal unit", as used in connection with a post office, means a contract postal unit which—

(I) begins to provide postal services to the general public during the period—

(aa) beginning 1 year before the date on which the closure or consolidation of such post office is scheduled to take effect; and

(bb) ending on the 15th day after the date on which the closure or consolidation of such post office is scheduled to take effect; and

(II) has not, pursuant to subparagraph (A), served as the basis for exempting any other post office from the appeals process set forth in paragraph (5).

(C)(i) If the contract postal unit (which is providing postal services that had been previously provided by the post office that was closed) does not continue to provide postal services, as required by subparagraph (B)(i)(II), for at least the 2-year period beginning on the date on which such post office was closed, the contract postal

unit shall be subject to a closure determination by the Postal Service to decide whether a post office must be reopened within the area (delimited by the 2-mile radius referred to in subparagraph (A)).

(ii) A decision under clause (i) not to reopen a post office may be appealed to the Postal Regulatory Commission under procedures which the Commission shall by regulation prescribe. Such procedures shall be based on paragraph (5), except that, for purposes of this clause, paragraph (5)(C) shall be applied by substituting "in violation of section 101(b), leaving postal patrons without effective and regular access to postal services" for "unsupported by substantial evidence on the record".

(8) For purposes of this subsection, the term "post office" means a post office and any other facility described in section 102(2) of the Postal Reform Act of 2011.

(e)(1) * * *

* * * * * * *

(6) Nothing in this section shall be considered to prevent the Postal Service from establishing nonpostal products and services that are expressly authorized by chapter 37.

(f)(1) The Postmaster General may, with respect to any year for which 6-day delivery is otherwise required, declare up to 12 non-mail delivery days. Not later than 1 month before the beginning of the year, the Postmaster General shall submit to the Board of Governors a report listing the non-mail delivery days in such year.

(2) A non-mail delivery day under this subsection shall be a day other than—

(A) a Sunday;

(B) a legal public holiday listed in section 6103(a) of title 5 or any other day declared to be a holiday by Federal statute or Executive order; or

(C) during the 30-day period that ends on the date of a regularly scheduled general election for Federal office.

(3) Any day which is declared under this subsection to be a non-mail delivery day—

(A) shall, for purposes of mail delivery and such other postal operations as the Postal Service may by regulation prescribe, be treated as if it were a Sunday; except that

(B) an employee of the Postal Service (other than one who is prevented from working on such day by reason of this subsection) shall be entitled to the same pay and benefits for that day as if this subsection had not been enacted.

(4)(A) The 6-day mail delivery requirement shall not apply with respect to a week in which a non-mail delivery day under this subsection occurs.

(B) The authority to declare a non-mail delivery day under this subsection shall be considered to be within the right of the Postal Service to determine the methods, means, and personnel by which postal operations are to be conducted.

(5) Not less than 6 months after the date of enactment of this subsection, the Postal Service may submit a proposal under section 3661 for a nationwide change in service to reduce mail delivery from 6 days to 5 days each week. Notwithstanding any other provision of law, the Postal Service shall maintain 6-day delivery service as the standard mail delivery schedule until 90 days following the

rendering of an advisory opinion on 5-day delivery by the Postal Regulatory Commission.

* * * * * * *

§ 411. Cooperation with other Government agencies

Executive agencies within the meaning of section 105 of title 5 and the Government Printing Office are authorized to furnish property, both real and personal, and personal and nonpersonal services to the Postal Service, and the Postal Service is authorized to furnish property and services to them. The furnishing of property and services under this section shall be under such terms and conditions, [including reimbursability] *including reimbursability within the limitations of chapter 37*, as the Postal Service and the head of the agency concerned shall deem appropriate.

* * * * * * *

CHAPTER 7—CONTRACTING PROVISIONS

§ 701. Definitions

In this chapter—

(1) the term "contracting officer" means an employee of a covered postal entity who has authority to enter into a postal contract;

(2) the term "covered postal entity" means—

(A) the Postal Service; or

(B) the Postal Regulatory Commission;

(3) the term "head of a covered postal entity" means—

(A) in the case of the Postal Service, the Postmaster General; or

(B) in the case of the Postal Regulatory Commission, the Chairman of the Postal Regulatory Commission;

(4) the term "postal contract" means—

(A) in the case of the Postal Service, any contract (including any agreement or memorandum of understanding) entered into by the Postal Service for the procurement of goods or services; or

(B) in the case of the Postal Regulatory Commission, any contract (including any agreement or memorandum of understanding) in an amount exceeding the simplified acquisition threshold (as defined in section 134 of title 41 and adjusted under section 1908 of such title) entered into by the Postal Regulatory Commission for the procurement of goods or services; and

(5) the term "senior procurement executive" means the senior procurement executive of a covered postal entity.

§ 702. Advocate for competition

(a) ESTABLISHMENT AND DESIGNATION.—

(1) There is established in each covered postal entity an advocate for competition.

(2) The head of each covered postal entity shall designate for the covered postal entity 1 or more officers or employees (other than the senior procurement executive) to serve as the advocate for competition.

(b) RESPONSIBILITIES.—The advocate for competition of a covered postal entity shall—

(1) be responsible for promoting—

(A) the contracting out of functions of the covered postal entity that the private sector can perform equally well or better, and at lower cost; and

(B) competition to the maximum extent practicable consistent with obtaining best value by promoting the acquisition of commercial items and challenging barriers to competition;

(2) review the procurement activities of the covered postal entity; and

(3) prepare and transmit the annual report required under subsection (c).

(c) ANNUAL REPORT.—

(1) PREPARATION.—The advocate for competition of a covered postal entity shall prepare an annual report describing the following:

(A) The activities of the advocate under this section.

(B) Initiatives required to promote contracting out and competition.

(C) Barriers to contracting out and competition.

(D) In the case of the report prepared by the competition advocate of the Postal Service, the number of waivers made by the Postal Service under section 704(c).

(2) TRANSMISSION.—The report under this subsection shall be transmitted—

(A) to Congress;

(B) to the head of the postal entity;

(C) to the senior procurement executive of the entity;

(D) in the case of the competition advocate of the Postal Service, to each member of the Postal Service Board of Governors; and

(E) in the case of the competition advocate of the Postal Regulatory Commission, to each of the Commissioners of the Commission.

§ 703. Delegation of contracting authority

(a) IN GENERAL.—

(1) POLICY.—Not later than 60 days after the date of enactment of this chapter, the head of each covered postal entity shall issue a policy on contracting officer delegations of authority for postal contracts for the covered postal entity.

(2) CONTENTS.—The policy issued under paragraph (1) shall require that—

(A) notwithstanding any delegation of authority with respect to postal contracts, the ultimate responsibility and accountability for the award and administration of postal

contracts resides with the senior procurement executive; and

(B) a contracting officer shall maintain an awareness of and engagement in the activities being performed on postal contracts of which that officer has cognizance, notwithstanding any delegation of authority that may have been executed.

(b) POSTING OF DELEGATIONS.—

(1) IN GENERAL.—The head of each covered postal entity shall make any delegation of authority for postal contracts outside the functional contracting unit readily available and accessible on the website of the covered postal entity.

(2) EFFECTIVE DATE.—This paragraph shall apply to any delegation of authority made on or after 30 days after the date of enactment of this chapter.

§704. Posting of noncompetitive purchase requests for noncompetitive contracts

(a) POSTING REQUIRED.—

(1) POSTAL REGULATORY COMMISSION.—The Postal Regulatory Commission shall make the noncompetitive purchase request for any noncompetitive award for any contract (including any agreement or memorandum of understanding) entered into by the Postal Regulatory Commission for the procurement of goods and services, in an amount of $20,000 or more, including the rationale supporting the noncompetitive award, publicly available on the website of the Postal Regulatory Commission—

(A) not later than 14 days after the date of the award of the noncompetitive contract; or

(B) not later than 30 days after the date of the award of the noncompetitive contract, if the basis for the award was a compelling business interest.

(2) POSTAL SERVICE.—The Postal Service shall make the noncompetitive purchase request for any noncompetitive award of a postal contract in an amount of $250,000 or more, including the rationale supporting the noncompetitive award, publicly available on the website of the Postal Service—

(A) not later than 14 days after the date of the award; or

(B) not later than 30 days after the date of the award, if the basis for the award was a compelling business interest.

(3) ADJUSTMENTS TO THE POSTING THRESHOLD FOR THE POSTAL SERVICE.—

(A) REVIEW AND DETERMINATION.—Not later than January 31 of each year, the Postal Service shall—

(i) review the $250,000 threshold established under paragraph (2); and

(ii) based on any change in the Consumer Price Index for all-urban consumers of the Department of Labor, determine whether an adjustment to the threshold shall be made.

(B) AMOUNT OF ADJUSTMENTS.—An adjustment under subparagraph (A) shall be made in increments of $5,000. If the Postal Service determines that a change in the Con-

sumer Price Index for a year would require an adjustment in an amount that is less than $5,000, the Postal Service may not make an adjustment to the threshold for the year.

(4) EFFECTIVE DATE.—This subsection shall apply to any noncompetitive contract awarded on or after the date that is 90 days after the date of enactment of this chapter.

(b) PUBLIC AVAILABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), the information required to be made publicly available by a covered postal entity under subsection (a) shall be readily accessible on the website of the covered postal entity.

(2) PROTECTION OF PROPRIETARY INFORMATION.—A covered postal entity shall—

(A) carefully screen any description of the rationale supporting a noncompetitive award required to be made publicly available under subsection (a) to determine whether the description includes proprietary data (including any reference or citation to the proprietary data) or security-related information; and

(B) remove any proprietary data or security-related information before making publicly available a description of the rationale supporting a noncompetitive award.

(c) WAIVERS.—

(1) WAIVER PERMITTED.—If the Postal Service determines that making a noncompetitive purchase request for a postal contract of the Postal Service publicly available would risk placing the Postal Service at a competitive disadvantage relative to a private sector competitor, the senior procurement executive, in consultation with the advocate for competition of the Postal Service, may waive the requirements under subsection (a).

(2) FORM AND CONTENT OF WAIVER.—

(A) FORM.—A waiver under paragraph (1) shall be in the form of a written determination placed in the file of the contract to which the noncompetitive purchase agreement relates.

(B) CONTENT.—A waiver under paragraph (1) shall include—

(i) a description of the risk associated with making the noncompetitive purchase request publicly available; and

(ii) a statement that redaction of sensitive information in the noncompetitive purchase request would not be sufficient to protect the Postal Service from being placed at a competitive disadvantage relative to a private sector competitor.

(3) DELEGATION OF WAIVER AUTHORITY.—The Postal Service may not delegate the authority to approve a waiver under paragraph (1) to any employee having less authority than the senior procurement executive.

§ 705. Review of ethical issues

If a contracting officer identifies any ethical issues relating to a proposed contract and submits those issues and that proposed contract to the designated ethics official for the covered postal entity before the awarding of that contract, that ethics official shall—

(1) review the proposed contract; and

(2) advise the contracting officer on the appropriate resolution of ethical issues.

§ 706. Ethical restrictions on participation in certain contracting activity

(a) DEFINITIONS.—In this section—

(1) the term "covered employee" means—

(A) a contracting officer; or

(B) any employee of a covered postal entity whose decision making affects a postal contract as determined by regulations prescribed by the head of a covered postal entity;

(2) the term "final conviction" means a conviction, whether entered on a verdict or plea, including a plea of nolo contendere, for which a sentence has been imposed; and

(3) the term "covered relationship" means a covered relationship described in section 2635.502(b)(1) of title 5, Code of Federal Regulations, or any successor thereto.

(b) IN GENERAL.—

(1) REGULATIONS.—The head of each covered postal entity shall prescribe regulations that—

(A) require a covered employee to include in the file of any noncompetitive purchase request for a noncompetitive postal contract a written certification that—

(i) discloses any covered relationship of the covered employee; and

(ii) states that the covered employee will not take any action with respect to the noncompetitive purchase request that affects the financial interests of a friend, relative, or person with whom the covered employee is affiliated in a nongovernmental capacity, or otherwise gives rise to an appearance of the use of public office for private gain, as described in section 2635.702 of title 5, Code of Federal Regulations, or any successor thereto;

(B) require a contracting officer to consult with the ethics counsel for the covered postal entity regarding any disclosure made by a covered employee under subparagraph (A)(i), to determine whether participation by the covered employee in the noncompetitive purchase request would give rise to a violation of part 2635 of title 5, Code of Federal Regulations (commonly referred to as the Standards of Ethical Conduct for Employees of the Executive Branch), or any successor thereto;

(C) require the ethics counsel for a covered postal entity to review any disclosure made by a contracting officer under subparagraph (A)(i) to determine whether participation by the contracting officer in the noncompetitive purchase request would give rise to a violation of part 2635 of title 5, Code of Federal Regulations (commonly referred to as the Standards of Ethical Conduct for Employees of the Executive Branch), or any successor thereto;

(D) under subsections (d) and (e) of section 2635.502 of title 5, Code of Federal Regulations, or any successor thereto, require the ethics counsel for a covered postal entity to—

(i) authorize a covered employee that makes a disclosure under subparagraph (A)(i) to participate in the noncompetitive postal contract; or

(ii) disqualify a covered employee that makes a disclosure under subparagraph (A)(i) from participating in the noncompetitive postal contract;

(E) require a contractor to timely disclose to the contracting officer in a bid, solicitation, award, or performance of a postal contract any conflict of interest with a covered employee; and

(F) include authority for the head of the covered postal entity to grant a waiver or otherwise mitigate any organizational or personal conflict of interest, if the head of the covered postal entity determines that the waiver or mitigation is in the best interests of the covered postal entity.

(2) POSTING OF WAIVERS.—Not later than 30 days after the head of a covered postal entity grants a waiver described in paragraph (1)(F), the head of the covered postal entity shall make the waiver publicly available on the website of the covered postal entity.

(c) CONTRACT VOIDANCE AND RECOVERY.—

(1) UNLAWFUL CONDUCT.—In any case in which there is a final conviction for a violation of any provision of chapter 11 of title 18 relating to a postal contract, the head of a covered postal entity may—

(A) void that contract; and

(B) recover the amounts expended and property transferred by the covered postal entity under that contract.

(2) OBTAINING OR DISCLOSING PROCUREMENT INFORMATION.—

(A) IN GENERAL.—In any case in which a contractor under a postal contract fails to timely disclose a conflict of interest to the appropriate contracting officer as required under the regulations promulgated under subsection (b)(1)(E), the head of a covered postal entity may—

(i) void that contract; and

(ii) recover the amounts expended and property transferred by the covered postal entity under that contract.

(B) CONVICTION OR ADMINISTRATIVE DETERMINATION.—A case described under subparagraph (A) is any case in which—

(i) there is a final conviction for an offense punishable under section 2105 of title 41; or

(ii) the head of a covered postal entity determines, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting an offense punishable under section 2105 of such title.

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PART II—PERSONNEL

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CHAPTER 10—EMPLOYMENT WITHIN THE POSTAL SERVICE

* * * * * * *

§ 1003. Employment policy

(a) Except as provided under chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law, the Postal Service shall classify and fix the compensation and benefits of all officers and employees in the Postal Service. It shall be the policy of the Postal Service to maintain *total* compensation and benefits for all officers and employees on a standard of comparability to the *total* compensation and benefits paid for comparable levels of work in the *entire* private sector of the economy. No officer or employee shall be paid compensation at a rate in excess of the rate for level I of the Executive Schedule under section 5312 of title 5.

* * * * * * *

(e)(1) At least 1 month before the start of each fiscal year as described in paragraph (2), the Postmaster General shall transmit to the Postal Regulatory Commission certification (together with such supporting documentation as the Postal Regulatory Commission may require) that contributions of the Postal Service for such fiscal year will not exceed—

(A) in the case of life insurance under chapter 87 of title 5, the Government contributions determined under section 8708 of such title; and

(B) in the case of health insurance under chapter 89 of title 5, the Government contributions determined under 8906 of such title.

(2) This subsection applies with respect to—

(A) except as provided in subparagraph (B), each fiscal year beginning after September 30, 2013; and

(B) in the case of officers and employees of the Postal Service covered by a collective bargaining agreement which is in effect on the date of the enactment of this subsection—

(i) each fiscal year beginning after the expiration date of such agreement, including

(ii) for the fiscal year in which such expiration date occurs, any portion of such fiscal year remaining after such expiration date.

(3)(A) If, after reasonable notice and opportunity for hearing is afforded to the Postal Service, the Postal Regulatory Commission finds that the contributions of the Postal Service for a fiscal year will exceed or are exceeding the limitation specified in subparagraph (A) or (B) of paragraph (1), the Commission shall order that the Postal Service take such action as the Commission considers necessary to achieve full and immediate compliance with the applicable limitation or limitations.

(B) Sections 3663 and 3664 shall apply with respect to any order issued by the Postal Regulatory Commission under subparagraph (A).

(C) Nothing in this paragraph shall be considered to permit the issuance of an order requiring reduction of contributions below the

level specified by the provision of law cited in subparagraph (A) or (B) of paragraph (1), as applicable.

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§ 1005. Applicability of laws relating to Federal employees

(a) * * *

* * * * * * *

[(c) Officers and employees of the Postal Service shall be covered by subchapter I of chapter 81 of title 5, relating to compensation for work injuries.]

(c)(1) For purposes of this subsection—

(A) the term "postal employee" means an officer or employee of the Postal Service or the former Post Office Department;

(B) the term "retirement age" has the meaning given such term under section 216(l)(1) of the Social Security Act; and

(C) the term "appropriate committees of Congress" means—

(i) the Committee on Oversight and Government Reform of the House of Representatives; and

(ii) the Committee on Homeland Security and Governmental Affairs of the Senate.

(2) The Postal Service shall design and administer a program for the payment of benefits for the disability or death of an individual resulting from personal injury sustained while in the performance of such individual's duties as a postal employee.

(3) The program under this subsection—

(A) shall be designed by the Postal Service in consultation with appropriate employee representatives;

(B) shall not provide for any amount payable to a disabled postal employee to be augmented on the basis of number of dependents; and

(C) shall include provisions for automatic transition, upon attainment of retirement age, to benefits involving, coordinated with, or otherwise determined by reference to retirement benefits.

* * * * * * *

(f) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the former Post Office Department or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Postal Service, until changed by the Postal Service in accordance with this chapter and chapter 12 of this title. Subject to the provisions of this chapter and chapter 12 of this title, the provisions of subchapter I of chapter 85 and chapters 87, 89, 89A, and 89B of title 5 shall apply to officers and employees of the Postal Service, unless varied, added to, or substituted for, under this subsection. [No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on the effective date of this section, and as to officers and employees for whom there is a collective-bargaining representative, no such variation, addition, or substitution shall be made except by agreement between the collective-bargaining representative and the Postal Service.]

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CHAPTER 12—EMPLOYEE-MANAGEMENT AGREEMENTS

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§ 1206. Collective-bargaining agreements

(a) * * *

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(d) Collective-bargaining agreements between the Postal Service and bargaining representatives recognized under section 1203, ratified after the date of enactment of this subsection, shall contain no provision restricting the applicability of reduction-in-force procedures under title 5 with respect to members of the applicable bargaining unit.

(e) Any collective-bargaining agreement between the Postal Service and the bargaining representatives recognized under section 1203 ratified before the date of enactment of this Act that contain any provision violating subsection (d) shall be renegotiated with a new collective-bargaining agreement to be ratified or imposed through an arbitration decision under section 1207 within 9 months after such date of enactment.

(f)(1) If a collective-bargaining agreement between the Postal Service and bargaining representatives recognized under section 1203, ratified after the date of enactment of this subsection, includes reduction-in-force procedures which can be applied in lieu of reduction-in-force procedures under title 5, the Postal Service may, in its discretion, apply with respect to members of the applicable bargaining unit—

(A) the alternative procedures (or, if 2 or more are agreed to, 1 of the alternative procedures); or

(B) the reduction-in-force procedures under title 5.

(2) In no event may, if procedures for the resolution of a dispute or impasse arising in the negotiation of a collective-bargaining agreement (whether through binding arbitration or otherwise) are invoked under this chapter, the award or other resolution reached under such procedures provide for the elimination of, or the substitution of any alternative procedures in lieu of, reduction-in-force procedures under title 5.

§ 1207. Labor disputes

(a) * * *

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[(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less then 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

⟦(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

⟦(3) Costs of the arbitration board and mediation shall be shared equally by the Postal Service and the bargaining representative.

⟦(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach the agreement within 90 days after the commencement of collective bargaining, a mediator shall be appointed in accordance with the terms in subsection (b) of this section, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days after the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of subsection (c) of this section.⟧

(c)(1) If no agreement is reached within 30 days after the appointment of a mediator under subsection (b), or if the parties decide upon arbitration before the expiration of the 30-day period, an arbitration board shall be established consisting of 1 member selected by the Postal Service (from the list under paragraph (2)), 1 member selected by the bargaining representative of the employees (from the list under paragraph (2)), and the mediator appointed under subsection (b).

(2) Upon receiving a request from either of the parties referred to in paragraph (1), the Director of the Federal Mediation and Conciliation Service shall provide a list of not less than 9 individuals who are well qualified to serve as neutral arbitrators. Each person listed shall be an arbitrator of nationwide reputation and professional nature, a member of the National Academy of Arbitrators, and an individual whom the Director has determined to be willing and available to serve. If, within 7 days after the list is provided, either of the parties has not selected an individual from the list, the Director shall make the selection within 3 days.

(3) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may elect. The hearing shall be concluded no more than 40 days after the arbitration board is established.

(4) No more than 7 days after the hearing is concluded, each party shall submit to the arbitration board 2 offer packages, each

of which packages shall specify the terms of a proposed final agreement.

(5) If no agreement is reached within 7 days after the last day date for the submission of an offer package under paragraph (4), each party shall submit to the arbitration board a single final offer package specifying the terms of a proposed final agreement.

(6) No later than 3 days after the submission of the final offer packages under paragraph (5), the arbitration board shall select 1 of those packages as its tentative award, subject to paragraph (7).

(7)(A) The arbitration board may not select a final offer package under paragraph (6) unless it satisfies each of the following:

(i) The offer complies with the requirements of sections 101(c) and 1003(a).

(ii) The offer takes into account the current financial condition of the Postal Service.

(iii) The offer takes into account the long-term financial condition of the Postal Service.

(B)(i) If the board unanimously determines, based on clear and convincing evidence presented during the hearing under paragraph (3), that neither final offer package satisfies the conditions set forth in subparagraph (A), the board shall by majority vote—

(I) select the package that best meets such conditions; and

(II) modify the package so selected to the minimum extent necessary to satisfy such conditions.

(ii) If modification (as described in subparagraph (B)(i)(II)) is necessary, the board shall have an additional 7 days to render its tentative award under this subparagraph.

(8) The parties may negotiate a substitute award to replace the tentative award selected under paragraph (6) or rendered under paragraph (7) (as the case may be). If no agreement on a substitute award is reached within 10 days after the date on which the tentative award is so selected or rendered, the tentative award shall become final.

(9) The arbitration board shall review any substitute award negotiated under paragraph (8) to determine if it satisfies the conditions set forth in paragraph (7)(A). If the arbitration board, by a unanimous vote taken within 3 days after the date on which the agreement on the substitute award is reached under paragraph (8), determines that the substitute award does not satisfy such conditions, the tentative award shall become final. In the absence of a vote, as described in the preceding sentence, the substitute agreement shall become final.

(10) If, under paragraph (5), neither party submits a final offer package by the last day allowable under such paragraph, the arbitration board shall develop and issue a final award no later than 20 days after such last day.

(11) A final award or agreement under this subsection shall be conclusive and binding upon the parties.

(12) Costs of the arbitration board and mediation shall be shared equally by the Postal Service and the bargaining representative.

(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach agreement within 90 days after the commencement of collective bargaining, a mediator shall be appointed in accordance with the provisions of subsection (b), un-

less the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days after the commencement of collective bargaining, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the provisions of subsection (c).

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PART III—MODERNIZATION AND FISCAL ADMINISTRATION

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CHAPTER 20—FINANCE

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§ 2009. Annual budget

The Postal Service shall cause to be prepared annually a budget program which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget program shall be a business-type budget, or plan of operations, with due allowance given to the need for flexibility, including provision for emergencies and contingencies, in order that the Postal Service may properly carry out its activities as authorized by law. The budget program shall contain estimates of the financial condition and operations of the Postal Service for the current and ensuing fiscal years and the actual condition and results of operation for the last completed fiscal year. Such budget program shall include a statement of financial condition, a statement of income and expense, an analysis of surplus or deficit, a statement of sources and application of funds, and such other supplementary statements and information as are necessary or desirable to make known the financial condition and operations of the Postal Service. Such statements shall include estimates of operations by major types of activities, together with estimates of administrative expenses and estimates of borrowings. The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978**[**, and (3)**]**, *(3)* the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title**[**.**]***, and (4) the Postal Service Financial Responsibility and Management Assistance Authority requests to be appropriated, out of the Postal Service Fund, under section 206 of the Postal Reform Act of 2011.* The President shall include these amounts, with his recommendations but without revision, in the budget transmitted to Congress under section 1105 of title 31.

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§ 2011. Provisions relating to competitive products

(a)(1) * * *

(2) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

(A) costs attributable to competitive products; ⟦and⟧

(B) all other costs incurred by the Postal Service, to the extent allocable to competitive products⟦.⟧*; and*

(C) vouchers under the program described in section 214(f)(1) of the Postal Reform Act of 2011.

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CHAPTER 24—APPROPRIATIONS AND ANNUAL REPORT

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§ 2401. Appropriations

(a) * * *

⟦(b)(1) As reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining, as elsewhere, there are authorized to be appropriated to the Postal Service the following amounts:

⟦(A) for each of the fiscal years 1972 through 1979, an amount equal to 10 percent of the sum appropriated to the former Post Office Department by Act of Congress for its use in fiscal year 1971;

⟦(B) for fiscal year 1980, an amount equal to 9 percent of such sum for fiscal year 1971;

⟦(C) for fiscal year 1981, $486,000,000;

⟦(D) for fiscal year 1982, $250,000,000;

⟦(E) for fiscal year 1983, $100,000,000;

⟦(F) for fiscal year 1984, no funds are authorized to be appropriated; and

⟦(G) except as provided in paragraph (2) of this subsection, for each fiscal year thereafter an amount equal to 5 percent of such sum for fiscal year 1971.

⟦(2) After fiscal year 1984, the Postal Service may reduce the percentage figure in paragraph (1)(G) of this subsection, including a reduction to 0, if the Postal Service finds that the amounts determined under such paragraph are no longer required to operate the Postal Service in accordance with the policies of this title.

⟦(c) There are authorized to be appropriated to the Postal Service each year a sum determined by the Postal Service to be equal to the difference between the revenues the Postal Service would have received if sections 3217 and 3403 through 3406 had not been enacted and the estimated revenues to be received on mail carried under such sections. In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume.

⟦(d) As reimbursement to the Postal Service for losses which it incurred as a result of insufficient amounts appropriated under section 2401(c) for fiscal years 1991 through 1993, and to compensate for the additional revenues it is estimated the Postal Service would have received under the provisions of section 3626(a) (as last in effect before enactment of the Postal Accountability and Enhancement Act), for the period beginning on October 1, 1993, and ending on September 30, 1998, if the fraction specified in subclause (VI) of section 3626(a)(3)(B)(ii) (as last in effect before enactment of the Postal Accountability and Enhancement Act) were applied with respect to such period (instead of the respective fractions specified in subclauses (I) through (V) thereof), there are authorized to be appropriated to the Postal Service $29,000,000 for each of fiscal years 1994 through 2035.❳

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PART IV—MAIL MATTER

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CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

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§ 3622. Modern rate regulation

(a) * * *

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(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

(1) * * *

* * * * * * *

(10) the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that—

❲(A) either—

❲(i) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; or

❲(ii) enhance the performance of mail preparation, processing, transportation, or other functions; and❳

(A) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; and

* * * * * * *

(d) REQUIREMENTS.—

(1) IN GENERAL.—The system for regulating rates and classes for market-dominant products shall—

(A) * * *

(B) subject to the limitation under subparagraph (A), establish postal rates to fulfill the requirement that each market-dominant class, product, and type of mail service (except for an experimental product or service) bear the direct and indirect postal costs attributable to such class, product, or type through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class, product, or type;

(C) establish postal rates for each group of functionally equivalent agreements between the Postal Service and users of the mail that—

(i) cover attributable cost; and

(ii) improve the net financial position of the Postal Service;

for purposes of this subparagraph, a group of functionally equivalent agreements shall consist of all service agreements that are functionally equivalent to each other within the same market-dominant product, but shall not include agreements within an experimental product;

[(B)**]** *(D)* establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

[(C)**]** *(E)* not later than 45 days before the implementation of any adjustment in rates under this section, including adjustments made under subsection (c)(10)—

(i) * * *

* * * * * * *

[(D)**]** *(F)* establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and

[(E)**]** *(G)* notwithstanding any limitation set under subparagraphs (A) and (C), and provided there is not sufficient unused rate authority under paragraph (2)(C), establish procedures whereby rates may be adjusted on an expedited basis due to either extraordinary or exceptional circumstances, provided that the Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

* * * * * * *

(4) PRC STUDY.—

(A) IN GENERAL.—Within 90 days after the end of the first fiscal year beginning after the date of enactment of the Postal Reform Act of 2011, the Postal Regulatory Commission shall complete a study to determine the quantitative impact of the Postal Service's excess capacity on the direct and indirect postal costs attributable to any class that bears less than 100 percent of its costs attributable (as described in paragraph (1)(B)), according to the most recent

annual determination of the Postal Regulatory Commission under section 3653.

(B) REQUIREMENTS.—The study required under subparagraph (A) shall—

(i) be conducted pursuant to regulations that the Postal Regulatory Commission shall prescribe within 90 days after the date of enactment of the Postal Reform Act of 2011, taking into account existing regulations for proceedings to improve the quality, accuracy, or completeness of ratemaking information under section 3652(e)(2) in effect on such date; and

(ii) for any year in which any class of mail bears less than 100 percent of its costs attributable (as described in paragraph (1)(B)), be updated annually by the Postal Service and included in its annual report to the Commission under section 3652, using such methodologies as the Commission shall by regulation prescribe.

(5) ADDITIONAL RATES.—Starting not earlier than 12 months and not later than 18 months after the date on which the first study described in paragraph (4) is completed, and at least once in each subsequent 12-month period, the Postal Service shall establish postal rates for each loss-making class of mail to eliminate such losses (other than those caused by the Postal Service's excess capacity) by exhausting all unused rate authority as well as maximizing incentives to reduce costs and increase efficiency, subject to the following:

(A) The term "loss-making", as used in this paragraph with respect to a class of mail, means a class of mail that bears less than 100 percent of its costs attributable (as described in paragraph (1)(B)), according to the most recent annual determination of the Postal Regulatory Commission under section 3653, adjusted to account for the quantitative effect of excess capacity on the costs attributable of the class (as described in paragraph (1)(C)).

(B) Unused rate authority shall be annually increased by 2 percent for each class of mail that bears less than 90 percent of its costs attributable (as described in paragraph (1)(B)), according to the most recent annual determination of the Postal Regulatory Commission under section 3653, adjusted to account for the quantitative effect of excess capacity on the costs attributable of the class (as described in paragraph (1)(C)), with such increase in unused rate authority to take effect 30 days after the date that the Commission issues such determination.

(6) EXCEPTION.—The requirements of paragraph (1)(B) shall not apply to a market-dominant product for which a substantial portion of the product's mail volume consists of inbound international mail with terminal dues rates determined by the Universal Postal Union (and not by bilateral agreements or other arrangements).

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§ 3626. Reduced rates

(a)(1) * * *

* * * * * * *

(5) The rates for any advertising under former section 4358(f) of this title shall be equal to 75 percent of the rates for advertising contained in the most closely corresponding regular-rate category of mail. *Notwithstanding any other provision of this paragraph, the percentage specified in the preceding sentence shall be increased by an additional 2 percentage points as of the first day of each calendar year beginning at least 3 years after the date of the enactment of the Postal Reform Act of 2011, until such percentage reaches 80 percent.*

(6) The rates for mail matter under former sections 4452 (b) and (c) of this title shall be established as follows:

(A) * * *

* * * * * * *

(C) Rate differentials within each subclass of mail matter under former sections 4452 (b) and (c) shall reflect the policies of this title, including the factors set forth in section 3622(b) of this title.

Notwithstanding any other provision of this paragraph, the percentage specified in subparagraph (A) shall be increased by an additional 2 percentage points as of the first day of each calendar year beginning at least 3 years after the date of the enactment of the Postal Reform Act of 2011, until such percentage reaches 80 percent.

* * * * * * *

⟦(e)(1) In the administration of this section, the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organization.

⟦(2) For purposes of this subsection—

⟦(A) the term "qualified political committee" means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee;

⟦(B) the term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

⟦(C) the term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.⟧

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SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

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§ 3632. Action of the Governors

(a) * * *

(b) PROCEDURES.—

(1) * * *

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(4) RATES FOR STREAMLINED REVIEW.—In the case of rates not of general applicability for competitive products that the Postmaster General considers eligible for streamlined review under section 3633(c), the Postmaster General shall cause each agreement to be filed with the Postal Regulatory Commission by such date, on or before the effective date of any new rate, as the Postmaster General considered appropriate.

【(4)】 *(5)* CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

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§ 3633. Provisions applicable to rates for competitive products

(a) * * *

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(c) STREAMLINED REVIEW.—Within 90 days after the date of the enactment of this subsection, after notice and opportunity for public comment, the Postal Regulatory Commission shall promulgate (and may from time to time thereafter revise) regulations for streamlined after-the-fact review of new agreements between the Postal Service and users of the mail that provide rates not of general applicability for competitive products, and are functionally equivalent to existing agreements that have collectively covered attributable costs and collectively improved the net financial position of the Postal Service. Streamlined review will be concluded within 5 working days after the agreement is filed with the Commission and shall be limited to approval or disapproval of the agreement as a whole based on the Commission's determination of its functional equivalence. Agreements not approved may be resubmitted without prejudice under section 3632(b)(3).

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SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

§ 3651. Annual reports by the Commission

(a) * * *

(b) ADDITIONAL INFORMATION.—

(1) * * *

(2) ALASKA BYPASS MAIL COSTS.—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal

Service in providing Alaska bypass mail service under section 5402.

【(2)】 *(3)* BASIS FOR ESTIMATES.—The Commission shall detail the basis for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

* * * * * * *

§ 3652. Annual reports to the Commission

(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

(1) which shall analyze costs, revenues, rates, and quality of service, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; 【and】

(2) which shall, for each market-dominant product provided in such year, provide—

(A) * * *

(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

(i) * * *

(ii) the degree of customer satisfaction with the service provided【.】*; and*

(3) which shall provide the overall change in Postal Service productivity and the resulting effect of such change on overall Postal Service costs during such year, using such methodologies as the Commission shall by regulation prescribe.

The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

* * * * * * *

§ 3653. Annual determination of compliance

(a) * * *

* * * * * * *

(c) Each annual written determination of the Commission under section 3653 shall include the following written determinations:

(1) Whether each product covered its costs, and if it did not, the determination shall state that such product is in noncompliance under section 3653(c).

(2) For each group of functionally equivalent agreements between the Postal Service and users of the mail, whether it fulfilled requirements to—

(A) cover attributable costs; and

(B) improve the net financial position of the Postal Service.

(3) Any group of functionally equivalent agreements (as referred to in subparagraph (B)) not meeting subparagraphs (A) and (B) of paragraph (2) shall be determined to be in noncompliance under this subsection.

(4) For purposes of this subsection, a group of functionally equivalent agreements (as referred to in paragraph (2)) shall consist of all service agreements that are functionally equivalent to each other within the same market-dominant or competitive product, but shall not include agreements within an experimental product.

⟦(c)⟧ *(d)* NONCOMPLIANCE WITH REGARD TO RATES OR SERVICES.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c) and (e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

⟦(d)⟧ *(e)* REVIEW OF PERFORMANCE GOALS.—The Postal Regulatory Commission shall also evaluate annually whether the Postal Service has met the goals established under sections 2803 and 2804, and may provide recommendations to the Postal Service related to the protection or promotion of public policy objectives set out in this title.

⟦(e)⟧ *(f)* REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates.

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SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

§ 3661. Postal services

(a) * * *

* * * * * * *

(d)(1) The Commission shall issue its opinion within 90 days after the receipt of any proposal (as referred to in subsection (b)) concerning—

(A) the closing or consolidation of postal retail facilities (as that term is defined in section 102(2) of the Postal Reform Act of 2011) to a degree that will generally affect service on a nationwide or substantially nationwide basis; or

(B) an identical or substantially identical proposal on which the Commission issued an opinion within the preceding 5 years.

(2) If necessary in order to comply with the 90-day requirement under paragraph (1), the Commission may apply expedited procedures which the Commission shall by regulation prescribe.

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CHAPTER 37—NONPOSTAL SERVICES

Sec

§ 3701. Purpose

This chapter is intended to enable the Postal Service to increase its net revenues through specific nonpostal products and services that are expressly authorized by this chapter. Postal Service revenues and expenses under this chapter shall be funded through the Postal Service Fund.

§ 3702. Definitions

As used in this chapter—

(1) the term "nonpostal services" is limited to services offered by the Postal Service that are expressly authorized by this chapter and are not postal products or services;

(2) the term "Postal Service advertising program" means a program, managed by the Postal Service, by which the Postal Service receives revenues from entities which advertise at Postal Service facilities and on Postal Service vehicles;

(3) the term "Postal Service program for State governments" means a program, managed by the Postal Service, by which the Postal Service receives revenue from State governments (including their agencies) for providing services on their behalf at Postal Service facilities;

(4) the term "attributable costs" has the same meaning as is given such term in section 3631; and

(5) the term "year" means a fiscal year.

§ 3703. Postal Service advertising program

Notwithstanding any other provision of this title, the Postal Service may establish and manage a program that allows entities to advertise at Postal Service facilities and on Postal Service vehicles. Such a program shall be subject to the following requirements:

(1) The Postal Service shall at all times ensure advertising it permits is consistent with the integrity of the Postal Service.

(2) Any advertising program is required to cover a minimum of 200 percent of its attributable costs in each year.

(3) All advertising expenditures and revenues are subject to annual compliance determination (including remedies for noncompliance) applicable to nonpostal products.

(4) Total advertising expenditures and revenues must be disclosed in Postal Service annual reports.

§ 3704. Postal Service program for State governments

(a) IN GENERAL.—Notwithstanding any other provision of this title, the Postal Service may establish a program to provide services for agencies of State governments within the United States, but only if such services—

(1) shall provide enhanced value to the public, such as by lowering the cost or raising the quality of such services or by making such services more accessible;

(2) do not interfere with or detract from the value of postal services, including—

(A) the cost and efficiency of postal services; and

(B) access to postal retail service, such as customer waiting time and access to parking; and

(3) provide a reasonable contribution to the institutional costs of the Postal Service, defined as reimbursement for each service and to each agency covering at least 150 percent of the attributable costs of such service in each year.

(b) PUBLIC NOTICE.—At least 90 days before offering any services under this section, the Postal Service shall make each agreement with State agencies readily available to the public on its website, including a business plan that describes the specific services to be provided, the enhanced value to the public, terms of reimbursement, the estimated annual reimbursement to the Postal Service, and the estimated percentage of attributable Postal Service costs that will be covered by reimbursement (with documentation to support these estimates). The Postal Service shall solicit public comment for at least 30 days, with comments posted on its website, followed by its written response posted on its website at least 30 days before offering such services.

(c) APPROVAL REQUIRED.—The Governors of the Postal Service shall approve the provision of services under this section by a recorded vote, with at least 2/3 of its membership voting for approval, with the vote publicly disclosed on the Postal Service website.

(d) CLASSIFICATION OF SERVICES.—All services for a given agency provided under this section shall be classified as a separate activity subject to the requirements of annual reporting under section 3706. Such reporting shall also include information on the quality of service and related information to demonstrate that it satisfied the requirements of subsection (a). Information provided under this section shall be according to requirements that the Postal Regulatory Commission shall by regulation prescribe.

(e) DEFINITIONS.—For the purpose of this section—

(1) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States; and

(2) the term "United States", when used in a geographical sense, means the States.

§3705. Postal Service program for other government agencies

(a) IN GENERAL.—The Postal Service may establish a program to provide property and services for other government agencies within the meaning of section 411, but only if such program provides a reasonable contribution to the institutional costs of the Postal Service, defined as reimbursement by each agency that covers at least 100 percent of the attributable costs of all property and service provided by the Postal Service in a each year to such agency.

(b) CLASSIFICATION OF SERVICES.—For each agency, all property and services provided by the Postal Service under this section shall be classified as a separate activity subject to the requirements of annual reporting under section 3706. Information provided under this

section shall be according to requirements that the Postal Regulatory Commission shall by regulation prescribe.

§ 3706. Transparency and accountability for nonpostal services

(a) ANNUAL REPORTS TO THE COMMISSION.—

(1) IN GENERAL.—The Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (b)) which shall analyze costs, revenues, rates, and quality of service for this chapter, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate compliance with all applicable requirements of this chapter.

(2) AUDITS.—The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report. The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

(b) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access, in accordance with such regulations as the Commission shall prescribe, to the working papers and any other supporting matter of the Postal Service and the Inspector General in connection with any information submitted under this section.

(c) CONTENT AND FORM OF REPORTS.—

(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating to the report) to be provided by the Postal Service under this section. Such reports shall be included with the annual compliance determination reported under section 3653. In carrying out this subsection, the Commission shall give due consideration to—

(A) providing the public with timely, adequate information to assess compliance;

(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

(C) protecting the confidentiality of information that is commercially sensitive or is exempt from public disclosure under section 552(b) of title 5.

(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of any interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

(A) the attribution of costs or revenues to property or services under this chapter has become significantly inaccurate or can be significantly improved;

(B) the quality of service data provided to the Commission for annual reports under this chapter has become significantly inaccurate or can be significantly improved; or

(C) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

(d) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

(e) ANNUAL COMPLIANCE DETERMINATION.—

(1) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under subsection (a) for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by any interested party, and an officer of the Commission who shall be required to represent the interests of the general public.

(2) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under subsection (a) with respect to a year, the Postal Regulatory Commission shall make a written determination as to whether any nonpostal activities during such year were or were not in compliance with applicable provisions of this chapter (or regulations promulgated under this chapter). The Postal Regulatory Commission shall issue a determination of noncompliance if the requirements for coverage of attributable costs are not met. If, with respect to a year, no instance of noncompliance is found to have occurred in such year, the written determination shall be to that effect.

(3) NONCOMPLIANCE.—If, for a year, a timely written determination of noncompliance is made under this chapter, the Postal Regulatory Commission shall take appropriate action. If the requirements for coverage of attributable costs specified by this chapter are not met, the Commission shall, within 60 days after the determination, prescribe remedial action to restore compliance as soon as practicable, which shall also include the full restoration of revenue shortfalls during the following fiscal year. The Commission may order the Postal Service to discontinue a nonpostal service under section 3703 or 3704 that persistently fails to meet cost coverage requirements.

(4) ANY DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this chapter, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of non-

compliance. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

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PART V—TRANSPORTATION OF MAIL

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CHAPTER 54—TRANSPORTATION OF MAIL BY AIR

§ 5404. Reimbursement of Alaska bypass mail costs

(a) IN GENERAL.—The State of Alaska, on an annual basis, shall make a payment to the Postal Service to reimburse the Postal Service for its costs in providing Alaska bypass mail service under section 5402 of this title.

(b) DATE OF FIRST PAYMENT.—The State of Alaska shall make its first payment under subsection (a) on or before the last day of the first fiscal year of the State of Alaska beginning after the date of enactment of this section.

(c) PAYMENT AMOUNTS.—

(1) DETERMINATION OF AMOUNTS.—The amount of a payment under subsection (a) shall be determined based on the most recent cost estimate prepared by the Postal Regulatory Commission under section 3651(b)(2) of this title (in this subsection referred to as the "cost estimate").

(2) FIRST PAYMENT.—The first payment under subsection (a) shall be in an amount equal to 20 percent of the cost estimate.

(3) SUBSEQUENT PAYMENTS.—Each subsequent payment under subsection (a) shall be in an amount equal to a percentage of the cost estimate determined by adding 20 percent to the percentage due in the prior year, except that no payment shall exceed 100 percent of the cost estimate.

(d) NOTICE OF PAYMENT AMOUNTS.—Not later than 30 days after the date of issuance of a cost estimate by the Postal Regulatory Commission under section 3651(b)(2) of this title, the Postal Service shall furnish the State of Alaska with written notice of the amount of the next payment due under subsection (a).

(e) DEPOSIT OF PAYMENTS.—Not later than the last day of the fiscal year of the State of Alaska in which notice of a payment is provided under subsection (d)—

(1) the State of Alaska shall transmit the payment to the Postal Service; and

(2) the Postal Service shall deposit the payment in the Postal Service Fund.

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART G—INSURANCE AND ANNUITIES

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CHAPTER 89—HEALTH INSURANCE

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§ 8909a. Postal Service Retiree Health [Benefit] *Benefits* Fund

(a) * * *

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(d)(1) * * *

* * * * * * *

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

(i) * * *

* * * * * * *

(v) [$5,500,000,000] *$1,000,000,000*, not later than September 30, 2011;

* * * * * * *

(ix) [$5,700,000,000] *$7,950,000,000*, not later than September 30, 2015; and

(x) [$5,800,000,000] *$8,050,000,000*, not later than September 30, 2016.

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TITLE 41, UNITED STATES CODE

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SUBTITLE III—CONTRACT DISPUTES

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CHAPTER 71—CONTRACT DISPUTES

§ 7101. Definitions

In this chapter:

(1) * * *

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(8) EXECUTIVE AGENCY.—The term “executive agency” means—

(A) * * *

* * * * * * *

(C) an independent establishment as defined in section 104 of title 5, except that the term does not include the Government Accountability Office; ❲and❳

(D) a wholly owned Government corporation as defined in section 9101(3) of title 31❲.❳*; and*

(E) the United States Postal Service and the Postal Regulatory Commission.

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MINORITY VIEWS ON H.R. 2309, THE POSTAL REFORM ACT

We respectfully but strongly oppose H.R. 2309, the Postal Reform Act, as ordered reported by the Committee on October 13, 2011.

The United States Postal Service stands at the center of a trillion dollar commercial industry that is responsible for 8.3 million Americans jobs. The Postal Service alone employs more than 500,000 Americans, including nearly 125,000 veterans, who process and distribute approximately 40% of the world's mail volume. In fiscal year 2011, the Postal Service delivered mail to more than 150 million households and businesses six days a week and generated approximately $66 billion in revenue.

Over the past five years, however, total mail volume has declined significantly, dropping from 213 billion pieces in 2006 to 168 billion pieces in 2011. First-class mail volume, which is the most profitable class of mail, continues to decline as customers opt for other forms of communication, such as e-mail, mobile telephone service, and internet-based social networking. According to the Postal Service, first class mail has dropped from approximately 100 billion pieces in 2006 to under 74 billion pieces in 2011.

Compounding this problem, the Postal Service is required to prefund, at an accelerated and inflexible rate, retiree health care benefits. This burdensome requirement is not imposed upon any other federal government agency or private sector entity and has caused a severe strain on the Postal Service's finances.

In addition, the Postal Service's viability is also hampered by various operational restrictions, as well as a cumbersome governance structure.

As a result of these factors, the Postal Service faces significant financial challenges. For instance, between fiscal years 2007 and 2011, the Postal Service reported a net loss of over $25 billion. The Postal Service has taken on $13 billion in debt over the past five years in order to keep pace with shrinking revenue and rising costs. The Postal Service reports that, under its current liquidity situation, it has only 10 to 15 days' worth of cash on hand to meet operating expenses. These margins that are expected to continue to decline going forward absent Congressional action.

Faced with these challenges, the Postal Service has taken a number of actions to reduce its costs. For example, the Postal Service has reduced the size of its workforce by more than 100,000 employees over the past four years. It has also worked with its largest employee labor union to reach a new collective bargaining agreement that will save approximately $3.8 billion over the next four and a half years. It has also increased mailing service prices to the fullest extent possible under the Congressionally mandated Consumer Price Index cap.

Despite these reforms, the Postal Service continues to struggle to keep pace with a shrinking marketplace. It is clear that the Postal

Service must continue to right-size its workforce, realign its network of facilities, and reorient its operations to meet the demands of the 21st Century economy. This treasured institution must reform its operations in a way that will enable it to continue to bind our nation together while enabling it to function as a self-sustaining business entity. The Postal Service must adapt in order to survive.

Congress should assist the Postal Service in pursuing these goals through comprehensive and bipartisan postal reform legislation. Congress must provide the Postal Service with the tools necessary to reduce its workforce in a sensible and compassionate way, adjust its network of retail and mail processing facilities, and pursue new lines of business that meet consumers' changing needs.

Unfortunately, H.R. 2309 fails to achieve these goals. It employs a heavy-handed and authoritarian approach to the effort to return the Postal Service to financial solvency. It also contains a series of unfunded intergovernmental and private sector mandates that raise Constitutional concerns and could prove counterproductive by driving more volume out of the mail stream. It would slash services, abrogate collective bargaining agreements, and maintain the onerous retiree health benefits prefunding requirement. The bill mandates the establishment of costly bureaucratic Commissions and governing Boards that may be no more successful than the Postal Service's existing reform efforts.

Instead of pursuing policies that will essentially dismantle the Postal Service, Congress should be advancing bipartisan legislation that will enable the Postal Service to surmount its financial challenges by implementing reforms in three core areas: personnel, profitability, and performance.

First, the Postal Service should not be forced to take on additional debt, but instead should be granted full access to the $10.9 billion surplus in its Federal Employee Retirement System (FERS) account—funds that rightfully belong to the Postal Service. This existing surplus should be used to incentivize the retirement of 100,000 or more active Postal Service employees in a compassionate manner that does not abrogate existing contracts between management and workers that were negotiated in good faith. This action will also help reduce the Postal Service's debt burden and allow it to pursue operational and capital enhancements to improve its future viability.

Second, the Postal Service should be empowered to function more like a business by focusing on profitability and accountability to stakeholders, who in this case are ratepayers and the American public. The Postal Service should be permitted to leverage its unique presence in communities across the country to offer new and novel services and products, such as check-cashing, digital currency, and enhanced logistics and warehousing services.

Third, the Postal Service's future profitability would be significantly improved if it were granted some level of regulatory relief, pricing flexibility through revisiting the composition of the rate cap, and greater leeway to reduce its brick and mortar footprint through a deliberative and transparent consolidation and co-location strategy.

Although many of these proposals are included in H.R. 2967, the Innovate to Deliver Act of 2011, to date the Committee has declined to consider this legislation.

The Postal Service reaches every corner of every state and touches the lives of millions of Americans on a daily basis. Rather than unilaterally advancing heavy-handed legislation that will devastate the Postal Service and punish workers, we should be working in a collaborative and bipartisan fashion to develop reform measures that will create the environment in which one of America's most trusted public institutions will be able to continue to implement its universal service mandate while meeting its operational costs.

ELIJAH E. CUMMINGS, *Ranking Member*
STEPHEN F. LYNCH, *Ranking Member, Subcommittee on Federal Workforce, U.S. Postal Service, and Labor Policy.*