

**Calendar No. 523**

113TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
113-237 }

POSTAL REFORM ACT OF 2013

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

WITH ADDITIONAL VIEWS

TO ACCOMPANY

S. 1486

TO IMPROVE, SUSTAIN, AND TRANSFORM THE UNITED STATES  
POSTAL SERVICE



JULY 31, 2014.—Ordered to be printed

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### POSTAL REFORM ACT OF 2013

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Mr. CARPER, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

### R E P O R T

together with

### ADDITIONAL VIEWS

[To accompany S. 1486]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1486), to improve, sustain and transform the United States Postal Service, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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### I. PURPOSE AND SUMMARY

S. 1486, the Postal Reform Act of 2014, seeks to address the United States Postal Service's short-term financial challenges while putting into place reforms intended to strengthen its long-term financial and commercial viability.

## II. BACKGROUND AND NEED FOR THE LEGISLATION

### A. GENERAL BACKGROUND

In 2012, the Committee on Homeland Security and Governmental Affairs reported out legislation, S. 1789, intended to update the Postal Service's business model and take steps to address the financial challenges it faced as a result of the recent recession and of a decline in the use of hard-copy mail. The Committee's report on that bill described the vital role the Postal Service plays in the U.S. economy, summarized the current legal framework of the Postal Service, and explained how recent trends have imperiled the long-term viability of the Postal Service as it currently exists.<sup>1</sup> Then on April 25, 2012, after several days of debate and the adoption of several amendments, the full Senate passed S.1789 by a vote of 62 to 37.<sup>2</sup> The House never considered the Senate bill or passed any comparable legislation, however, and comprehensive postal reform legislation was not enacted during the 112th Congress.

The improving economy and the growing package delivery market have somewhat improved the Postal Service's short-term financial outlook since the Committee last acted on postal reform. In recent years, the volume of Standard Mail (a class of commercial mail that is lower-priority than First-Class Mail) has stabilized,<sup>3</sup> and the Postal Service has seen a dramatic increase in package volume.<sup>4</sup> In addition, the Postal Service has generated significant cost savings through dramatic and aggressive cost-cutting efforts. Postmaster General Patrick Donahoe described for this Committee the operational and workforce initiatives that the Postal Service has implemented to better align capacity and cost with reduced mail volumes:

These initiatives include the accelerated consolidation of mail processing and delivery networks, and the reduction in hours at 13,000 Post Offices, in conjunction with the expansion of alternative retail access. . . . This realignment of mail processing, retail, and delivery operations is expected to generate \$6 billion in annual cost reductions by the year 2016.

The Postal Service also continues to implement efficiency measures by aligning staffing levels with projected mail volume. These staffing level reductions will be achieved primarily through attrition . . . . [The Postal Service is also increasing the use of lower-cost non-career employees], which will facilitate the realignment of staffing and workload levels and the reduction of costs. The Postal Service's current career workforce of 492,000 is the

<sup>1</sup> "21st Century Postal Service Act of 2012," Report of the Senate Committee on Homeland Security and Governmental Affairs to accompany S.1789, Senate Report no. 112-143 (Jan. 31, 2012), at pages 1-4.

<sup>2</sup> Congressional Record, S.2695-S2696 (April 25, 2012).

<sup>3</sup> Standard Mail is the largest-volume mail class, consisting of nearly 81 billion pieces in 2013. According to figures provided by the Postal Service, Standard Mail volume plummeted by nearly 17% in 2009 compared to the previous year, but, since then, volume has gone through only relatively minor fluctuations: up by 0.1 percent in 2010, up an additional 2.6% in 2011, back down by 5.3% in 2012, and back up by 1.8% in 2013.

<sup>4</sup> The Postal Service's shipping and package services declined in 2009 by 8.0% in volume from the previous year, saw an additional slight drop of 0.6% in 2010, and since then has seen steady growth: 6.6% in 2011, and additional 7.5% in 2012, and a further 6.0% in 2013. See United States Postal Service Form 10-K for Fiscal Year 2013 at p. 25, available at <http://about.usps.com/who-we-are/financials/10k-reports/fy2013.pdf>.

smallest it has been in decades and is down nearly 26 percent in the past five years.<sup>5</sup>

However, the fundamental structural problems this Committee sought to address in 2012 remain unabated. The Postal Service continues to face serious financial challenges that threaten its short-term and long-term viability. First-Class Mail—the class of mail that makes the largest contribution to the Postal Service’s bottom line—continues to decline. For example, Postal Service data show a persistent decline in First-Class Mail volume over the past five years: by 8.8 percent in 2009, a further 6.2 percent decline in 2010, another 6.5 percent in 2011, another 5.3 percent decline in 2012, and yet another decline of 4.2 percent in 2013. The Postal Service’s last-published 5-year plan projects First-Class Mail volumes continuing to drop by 5 to 6 percent each year.<sup>6</sup>

As of the end of the second quarter of Fiscal Year 2014, the Postal Service was carrying \$3.7 billion in cash-on-hand<sup>7</sup>—barely enough to cover two of its \$1.75-billion bi-weekly payrolls, not to mention its other obligations during the period. Moreover, the Postal Service has borrowed the full \$15 billion it is permitted under law to borrow from the Treasury. In addition, the Postal Service’s financial condition has made it difficult to invest in needed capital projects. Chief Financial Officer Joseph Corbett explained: “Our liabilities exceed our assets by \$42 billion and we have a need for more than \$10 billion to invest in new delivery vehicles, package sortation equipment, and other deferred investments.”<sup>8</sup> The Postmaster General has also stated that “legislative action is required to give the Postal Service authority to generate new revenue and adapt to changing business conditions, as the scope of products and services that the Postal Service can offer is currently limited by law.”<sup>9</sup>

The Committee held an initial hearing to discuss these and other issues facing the Postal Service on February 13, 2013.<sup>10</sup> Senators Carper and Coburn introduced S. 1486 on August 1, 2013, and the Committee held further hearings on September 19 and September 26, 2013.<sup>11</sup> Then on February 6, 2014, after extensive debate and

<sup>5</sup> “Outside the Box: Reforming and Renewing the Postal Service, Part I—Maintaining Services, Reducing Costs and Increasing Revenue Through Innovation and Modernization,” hearing before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (Sept. 19, 2013) (Testimony of Postmaster General Patrick R. Donahoe).

<sup>6</sup> See U.S. Postal Service, “Five-Year Business Plan,” April 2013, <http://about.usps.com/strategic-planning/five-year-business-plan-2012-2017.pdf>.

<sup>7</sup> See United States Postal Service Form 10–Q for Fiscal Year 2014, Quarter 2 at p. 8, available at <http://about.usps.com/who-we-are/financials/financial-conditions-results-reports/fy2014-q2.pdf>.

<sup>8</sup> U.S. Postal Service Records Second Quarter Loss of \$1.9 Billion: Urges Congress to Pass Comprehensive Postal Legislation,” May 09, 2014, [http://about.usps.com/news/national-releases/2014/pr14\\_031.htm](http://about.usps.com/news/national-releases/2014/pr14_031.htm). U.S. Postal Service Records Second Quarter Loss of \$1.9 Billion.

<sup>9</sup> “Outside the Box: Reforming and Renewing the Postal Service, Part I—Maintaining Services, Reducing Costs and Increasing Revenue Through Innovation and Modernization,” hearing before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (Sept. 19, 2013).

<sup>10</sup> “Solutions to the Crisis Facing the U.S. Postal Service,” hearing before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (Feb. 13, 2013), <http://www.gpo.gov/fdsys/pkg/CHRG-113shrg80219/pdf/CHRG-113shrg80219.pdf>.

<sup>11</sup> “Outside the Box: Reforming and Renewing the Postal Service, Part I—Maintaining Services, Reducing Costs and Increasing Revenue Through Innovation and Modernization,” hearing before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (Sept. 19, 2013); “Outside the Box: Reforming and Renewing the Postal Service, Part II—Promoting a 21st Century Workforce,” hearing before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (Oct. 19, 2013).

the consideration of nearly 30 amendments, the Committee ordered the bill reported favorably to the full Senate by a vote of 9 to 1.

The bill approved by the Committee contains a comprehensive package of reforms to protect key postal operations and services, shore up the Postal Service's finances, set aside enough funding to cover postal retirees' future benefits, and increase Postal Service revenues by making ratemaking more realistic and by encouraging innovation. Key elements of the bill include—

- Protect Saturday mail delivery until at least 2017. Impose a two-year moratorium on processing plant closures and on changes to delivery service standards. Require the Postal Service to seek additional local input before closing post offices, and place a five-year moratorium on closing rural post offices.

- Stop overcharging the Postal Service for the cost of its employees' pensions, by requiring calculations of the Postal Service's obligations be based on the actual characteristics of the postal workforce. Restructure the Postal Service's burdensome healthcare pre-funding requirements, replacing them with a payment plan that enables the Postal Service to honor its commitments to its retirees without leaving taxpayers on the hook. Maintain the high-quality healthcare coverage for postal workers and retirees under the Federal Employee Health Benefits Program (FEHBP), plus better utilize the Postal Service's participation in the Medicare program to both enhance retiree healthcare coverage and reduce the cost to the Postal Service.

- Encourage innovation and generate revenue for the Postal Service by allowing it to offer a broader range of "non-postal" products and services, within appropriate boundaries. Establish a commission to explore new business models for the Postal Service to increase revenues and reduce costs. Adjust the rules on postal rates to enable the Postal Service to generate more revenue, while preserving both Postal Regulatory Commission oversight and the existing Consumer Price Index (CPI) rate cap.

The Postal Service has indicated that the provisions of the bill as ordered reported by the Committee would, if enacted this year, allow it to pay down its debt to Treasury by Fiscal Year 2016, substantially reduce or eliminate its unfunded retiree health care obligation and the need to pre-fund it, lead to increased revenue over time, allow for needed capital expenditures in the coming years, and result in a positive cash balance of \$7.1 billion after ten years. (See Appendix A of this Report, which presents financial projections developed by the Postal Service, showing the impact on the Postal Service's finances if S.1486 is enacted.)

## B. DISCUSSION OF LEGISLATIVE ISSUES

### 1. *FERS surplus; Postal-specific assumptions for FERS and CSRS funding*

United States Postal Service (USPS) employees, like federal employees, participate in the Federal Employees Retirement System (FERS) or, for employees who began federal service before the end of 1986, the Civil Service Retirement System (CSRS). Thus, the Postal Service is required to make the biweekly employer contributions for postal employees participating in FERS and CSRS. Also, the Office of Personnel Management (OPM) finds that the amounts

paid to fund postal workers' future annuities under CSRS are insufficient, and the Postal Service must make annual payments to liquidate the liability starting in 2018.<sup>12</sup>

S. 1486 would require that, in calculating the amounts that the Postal Service must pay for postal workers' annuities, OPM must use the demographic and salary-growth characteristics of the Postal Service's actual workforce, rather than the general characteristics of both postal and non-postal federal employees combined, as OPM does today. This provision responds to findings reported by the Postal Service's Office of Inspector General (USPS OIG), based on findings by the Hay Group (an actuarial consulting firm), that OPM's current approach substantially over-estimates the amount that postal retirees' annuities will actually cost the FERS and CSRS programs.<sup>13</sup> Both the Postal Service and the President in his budget recommendations for Fiscal Year 2015 have also called for legislation to require the use of postal-specific assumptions for determining the Postal Service's pension obligations.<sup>14</sup>

Moreover, if OPM finds that the Postal Service has paid more into the FERS system than its employees' annuities will actually cost, this legislation provides an orderly process by which the surplus can be returned for use by the Postal Service. If a surplus existed as of September 30, 2013, the Postal Service may request not more than \$6 billion of the amount and use it to retire debt. The bill also establishes rules for the Postal Service to gain access to and use of any surplus that may remain or develop in subsequent years.

OPM has estimated that, if demographic factors specific to the postal workforce were used, the surplus in the FERS system available to fund postal workers' annuities would amount to about \$ 2.4 billion as of September 30, 2013. S. 1486 would provide the Postal Service with the option of having some or all of that amount applied to retire the Postal Service's debt.

## 2. *Retiree health pre-funding payments*

The Postal Service is under various statutory mandates concerning its funding of the retirement health benefits for its current and former employees. While it is critical that the Postal Service behave responsibly with respect to these retirement obligations, this bill seeks to recalibrate these mandates in order to lessen their immediate burden while still ensuring that the Postal Service will contribute sufficiently to meet realistic estimates of future needs.

The Postal Accountability and Enhancement Act of 2006<sup>15</sup> required the Postal Service to make a series of ten payments beginning in Fiscal Year 2007 to pre-fund its future retiree health obligations. The amount of each payment is set in statute and ranges

<sup>12</sup> See 5.U.S.C. 8348(h). OPM has found that the Postal Service has paid more than enough to fund its employees' annuities under FERS, but, if OPM ever finds a liability, the Postal Service would be obligated to make annual payments to liquidate that liability as well. See 5.U.S.C. 8423(b).

<sup>13</sup> USPS OIG, *Using U.S. Postal Service-Specific Assumptions for Calculating the Federal Employees Retirement System Liability: Management Advisory Report* (Report Number FT-MA-13-024) (Sept. 27, 2013), <https://www.uspsig.gov/sites/default/files/document-library-files/2013/ft-ma-13-024.pdf>.

<sup>14</sup> "Outside the Box: Reforming and Renewing the Postal Service, Part II—Promoting a 21st Century Workforce," hearing Before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (Sept. 26, 2013) (Statement submitted by Postmaster General Patrick R. Donahoe); FY 2015 Budget of the U.S. Government, Appendix pages 1232 and 1362.

<sup>15</sup> P.L. 109-435.

from \$5.4 billion to \$5.8 billion annually, although Congress decreased the size of the payment due in Fiscal Year 2009 from \$5.4 billion to \$1.4 billion in an effort to ease the financial strain on the Postal Service.<sup>16</sup> Under current law, the Postal Service is scheduled in Fiscal Year 2017 to begin paying down whatever retiree health obligations remain over a period of 40 years.<sup>17</sup>

As of the end of Fiscal Year 2013, the Postal Service Retiree Health Benefits Fund (the Fund) had a balance of over \$47 billion and the Postal Service had a remaining liability to the Fund of just over \$48 billion.<sup>18</sup> For the past few years, the Postal Service has been unable to make its annual pre-funding payment and defaulted on its last three statutory payments, a \$5.5 billion payment due on August 1, 2012 that was delayed from September 2011, a \$5.6 payment due on September 30, 2012, and a \$5.6 billion payment due on September 30, 2013. The Postal Service is expected to default on the 2014 payment of \$5.7 billion on September 30, 2014, and absent comprehensive reform, will likely also default on the payments due in 2015 and 2016.

The Postal Service is also obligated to make premium payments each year on behalf of current retirees. According to data provided to the Committee by the Postal Service, those premium payments totaled \$2.85 billion in Fiscal Year 2013 and are projected to reach \$3.6 billion annually by Fiscal Year 2016.

The Committee recognizes that the statutorily mandated retiree health prefunding payment schedule has been difficult to meet due to the declining revenues of the Postal Service as a result of the electronic diversion of the mail and a major recession that significantly affected mail volume. At the same time, the Committee is aware that easing or eliminating the pre-funding obligation could one day either break promises made to retirees, or leave taxpayers with a significant financial obligation in the event that the Postal Service becomes unable to make the payments itself.

In order to provide the Postal Service with financial relief while maintaining its responsibility for the costs related to its employees, S. 1486 would make four major reforms to the Postal Service's current retiree health payment schedule and structure:

1. It would cancel any outstanding payments owed by the Postal Service.
2. It would replace the existing payment schedule—the statutory annual payments and the 40-year amortization schedule that will start in Fiscal Year 2017—with a new 40-year amortization schedule that would start in Fiscal Year 2016.
3. It would set the pre-funding goal underlying the new amortization schedule at 80 percent of the obligation (rather than the current 100 percent), in recognition of the fact that the Postal Service, if necessary, has additional assets it could draw upon to meet these obligations.
4. It would allow the Postal Service's contribution towards current retirees' premiums to be paid out of the Fund in the Treasury in which the Postal Service's pre-funding payments have been deposited since Fiscal Year 2007. That Fund cur-

<sup>16</sup>P.L. 111-68, § 164.

<sup>17</sup>5 U.S.C. § 8909a(d)(2)(B).

<sup>18</sup>United States Postal Service Form 10-K for Fiscal Year 2013 at p. 38, available at <http://about.usps.com/who-we-are/financials/10k-reports/fy2013.pdf>.



rently includes just over \$47 billion. (Under current statute, the Postal Service's contribution to current retirees' premiums may be paid from the Fund beginning on September 30, 2017.)<sup>19</sup>

### 3. *Postal service health benefits program*

In order to ensure the future financial viability of the Postal Service, the Committee recognizes that the Postal Service must be able to address its healthcare costs and future healthcare liabilities. The Postal Service has for a number of years proposed to provide postal employees and annuitants with a separate Postal Service administered health care plan that is fully integrated with Medicare, as a way to reduce health care costs and reduce their future retiree health care liability.<sup>20</sup> While the Committee did not choose to create an entirely separate health plan run by the Postal Service, S. 1486 does create a new postal-only health program within Federal Employees Health Benefits Program (FEHBP) for all postal employees and annuitants that is integrated with Medicare parts A, B, and D.

S. 1486 would authorize OPM to establish the Postal Service Health Benefits Program (PSHBP) within the FEHBP. OPM would be required to contract with carriers of current FEHBP plans that have over 5,000 postal employees and retirees enrolled in its FEHBP plans for the 2015 contract year, but all FEHBP carriers would be eligible to bid to participate in the PSHBP. Requiring plans with more than 5,000 postal enrollees to participate ensures the participation of at least the insurance carriers that currently cover over 90 percent of the postal community, but participation is not limited to only those plans. The bill would authorize OPM to add, after 2016, to the PSHBP only those health plans that meet the requirements and criteria to be offered through the FEHBP and carriers participating in the FEHBP. However, it is the intent of the Committee that carriers that are exclusive collective bargaining representatives with the Postal Service may terminate their participation in the civil service segment of the FEHBP and still continue to participate in the PSHBP subject to FEHBP requirements.

One key difference between the current FEHBP and the new PSHBP is that the PSHBP would require Medicare enrollment for postal annuitants who are eligible for Medicare parts A, B and D and provide postal annuitants with prescription drugs through a Medicare Part D Employee Group Waiver plan. Currently, Postal Service annuitants, like all other federal annuitants, receive full FEHBP coverage in retirement. Like all Americans, they have also paid into and are eligible for Medicare. However, unlike other businesses that provide health coverage to their retirees, the Postal Service is unable to require its Medicare-eligible annuitants to enroll in Medicare. In fact, approximately 8 percent of Medicare-eligible postal annuitants do not participate in Medicare part A and ap-

<sup>19</sup> 5 U.S.C. § 8906(g)(2)(A).

<sup>20</sup> See, e.g., "Solutions to the Crisis Facing the U.S. Postal Service," hearing Before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (February 13, 2013) (testimony of Patrick R. Donahoe, Postmaster General and CEO, U.S. Postal Service) available at <http://www.hsgac.senate.gov/hearings/solutions-to-the-crisis-facing-the-us-postal-service> [hereinafter Donahoe Testimony at HSGAC Hearing Feb. 13, 2013].

proximately 22 percent do not participate in Medicare part B.<sup>21</sup> In addition, postal annuitants, like all other federal employees and annuitants, do not receive prescription drug coverage through Medicare part D. This results in higher costs for the FEHBP that translate to higher costs for the Postal Service.

S. 1486 would require Medicare-eligible postal annuitants to enroll in Medicare parts A, B and D as a condition of their enrollment in the PSHBP. Since the PSHBP would be a separate risk pool from the rest of the FEHBP, any savings, whether from higher Medicare enrollment or otherwise, would be seen by the Postal Service, its employees and its annuitants. This new program should provide the Postal Service with significant savings over time and further decrease its future retiree health care liability, reducing its retiree health prefunding requirements.

According to data provided to the Committee by the Postal Service, implementation of this new Postal Service Health Benefits Program, combined with the restructuring under this legislation of the Postal Service's obligation to prefund its retirees healthcare, could substantially reduce or eliminate the Postal Service's unfunded liability to the Postal Service Retiree Health Benefits Fund. (See Appendix A of this Report, which presents financial projections developed by the Postal Service, showing the impact on the Postal Service's finances if S. 1486 is enacted. Also included in Appendix A is a letter from the Postal Service to the Chairman of this Committee, conveying a memorandum that reconciles the Postal Service's estimates and CBO's scoring of S. 1486, and restating the Postal Service's belief that the analysis of the cost savings associated with the Medicare integration provision of S. 1486 is accurate and correct.).

#### 4. *Postal unions and collective bargaining*

Postal unions date back to the 19th Century and postal employees won the right to bargain collectively with the Postal Service in 1970. Unlike most federal agencies and their employees, which are governed by government-wide civil service rules, the Postal Service generally sets compensation and other terms and conditions of employment for workers represented by unions through a process of collective bargaining between postal management and postal unions.<sup>22</sup> In addition to wages and working conditions, the Postal Service also establishes leave and holidays through collective bargaining, as well as the amounts of the biweekly contribution by the Postal Service to the cost of employees' health insurance. Postal workers are forbidden to strike, but instead, if the parties are unable to reach a timely agreement, the dispute must be resolved by binding arbitration.<sup>23</sup>

*Retirement benefits for new employees.* Retirement benefits for postal employees are currently excluded from collective bargaining and are provided to postal employees under the same statutes that grant these benefits to federal employees generally.<sup>24</sup> S. 1486 would modify that approach prospectively by allowing unions and

<sup>21</sup> Government Accountability Office (GAO), *U.S. Postal Service: Proposed Health Plan Could Improve Financial Condition, but Impact on Medicare and Other Issues Should Be Weighed before Approval*, GAO-13-658, at p. 8 (July 2013).

<sup>22</sup> 39 U.S.C. § 1005(f), chapter 12.

<sup>23</sup> 39 U.S.C. § 1207.

<sup>24</sup> 39 U.S.C. § 1005(f).

management to reconsider the retirement package for newly hired postal workers.

In testimony before this Committee, Postmaster General Donahoe proposed that postal employees be removed from coverage under the retirement program that applies to federal employees generally, and that instead the Postal Service be authorized to establish a new retirement program consisting of a defined contribution retirement system for future postal employees.<sup>25</sup> He stated that such a retirement system would be preferable for a number of reasons, including that the FERS system is not comparable to pension programs in the private sector and is more costly, and that the emerging workforce is less likely to stay with one employer for a career and therefore wants a more flexible and portable program like a defined contribution system.

The Committee did not decide that the FERS annuity for new employees should be ended, however, but S. 1486 would, instead, allow the Postal Service and the postal unions to bargain over the question of whether new employees will earn credit towards a FERS annuity, and to bargain over the size of the Postal Service's financial contribution towards its new employees' retirement. Specifically, the legislation provides that a union's collective bargaining agreement may—(1) provide that some or all new employees represented by the union will not receive a FERS annuity for their service at the Postal Service; (2) adjust the amounts that the Postal Service would contribute to the FERS plan for the employees; (3) offer alternative retirement benefit plans for new employees represented by the union; and (4) adjust the amounts that the Postal Service would contribute towards the new employees' Thrift Savings Plan (TSP) accounts. It is anticipated that bargaining over the retirement program would generally take place between the Postal Service and each union separately, in connection with the general collective bargaining agreement entered into between the Postal Service and each union. (With respect to the TSP program, the bill allows the amount of the Postal Service's contributions to new employees' accounts to be modified only by a collective bargaining agreement with all four postal unions.)

The Committee expects the Postal Service to use these flexibilities prudently, to continue recruiting and maintaining a high-skill and high-morale workforce.

*Binding arbitration in resolution of labor disputes.* If a dispute between postal unions and management cannot be resolved and is sent to binding arbitration, statute provides that a three-member arbitration board be convened to give the parties a full and fair hearing, to provide parties an opportunity to present evidence in support of their claims, and to render a conclusive and binding decision.<sup>26</sup> Postmaster General Donahoe has requested an amendment to this statute requiring specifically that the arbitration board must consider the Postal Service's financial health, explaining: "While some interest arbitrators [who resolve bargaining disputes between the Postal Service and its unions] do consider the

<sup>25</sup> "Outside the Box: Reforming and Renewing the Postal Service, Part II—Promoting a 21st Century Workforce," hearing Before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (Sept. 26, 2013) (Statement of Postmaster General Patrick R. Donahoe).

<sup>26</sup> 39 U.S.C. § 1207(c).

Postal Service's financial condition, there is no legal requirement to do so."<sup>27</sup> The Government Accountability Office (GAO) has also recommended such a change to statute for similar reasons.<sup>28</sup>

The Committee believes that in this period when the Postal Service faces such dire financial difficulties, arbitrators should consider the financial condition of the Postal Service and S. 1486 should say so explicitly. The provision in S. 1486 is identical to the provision passed by the Senate as part of S. 1789 in the 112th Congress.<sup>29</sup>

##### 5. Other workforce issues

*Appeal Rights for Certain Mid-Level Managers.* In 1987, Congress allowed postal supervisors to appeal firings and other adverse personnel actions to the Merit Systems Protection Board (MSPB),<sup>30</sup> which is an independent adjudicatory agency that generally reviews cases brought by federal employees who claim that personnel actions being taken against them are not lawful or that proposed penalties are not appropriate. Meanwhile, front-line postal workers retained the right to use the grievance procedures established under their union contracts. That left approximately 7,500 mid-level postal managers without any way to appeal ordinary personnel cases outside of the Postal Service. S. 1486 would fill that gap by allowing these managers to appeal firings and other adverse personnel actions to the MSPB.

*Managers' Organizations.* Current law requires that the Postal Service provide reasonable differentials in rates of pay between front-line workers and managers, and that managers' organizations have an opportunity, on behalf of their members, to consult with the Postal Service about pay and benefits. S. 1486 would clarify and strengthen this process, in several ways. Current law requires the Postal Service to provide reasonable differentials in pay between front-line employees and managers, and the legislation clarifies that the Postal Service must take benefits into account as well as salary in providing the differential. Moreover, the legislation clarifies that changes to pay and/or benefits, including the termination of a benefit, for managers cannot occur outside the designated time period for pay consultation between the managers' organizations and the Postal Service unless mutually agreed upon.

*FECA Prefunding.* For workers' compensation payments to be paid under the Federal Employees' Compensation Act (FECA) for on-the-job injuries to postal workers, the Postal Service carries on its books an unfunded liability in excess of \$17 billion. S.1486 would establish a process under which the Postal Service will begin to pay down this unfunded liability. And to make sure that this requirement does not create new financial difficulties for the Postal Service, it would only be required to make a prefunding payment in any year when the Postal Service has net income exceeding \$1

<sup>27</sup> "Outside the Box: Reforming and Renewing the Postal Service, Part II—Promoting a 21st Century Workforce," hearing Before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (Sept. 26, 2013) (Statement submitted by Postmaster General Patrick R. Donahoe).

<sup>28</sup> "Finding Solutions to Challenges Facing the U.S. Postal Service," hearing Before the Subcomm. on Federal Financial Management, Government Information, Federal Services and International Security of the Senate Committee on Homeland Security and Governmental Affairs, 111th Cong. (Dec. 2, 2010) ("U.S. Postal Service: Legislation Needed to Address Key Challenges," statement submitted by Phillip Herr, Director for Physical Infrastructure Issues, Government Accountability Office, GAO-11-244T, at p.9).

<sup>29</sup> S. 1789, 112th Congress, § 106 of the bill as passed by the Senate.

<sup>30</sup> Public Law 100-90 (Aug. 18, 1987).

billion. The amortization schedule is modeled on the schedule now in the bill for Retiree Health Benefits: an 80% target and an amortization period extending 40 years, or a rolling period of 15 years, whichever period ends later. Under this plan, the Postal Service would keep the first \$1 billion of annual net income, which the Postal Service could use for capital investment or any other appropriate purposes, but would need to make any amount above \$1 billion available, to the extent necessary, for making the amortization payment. Also, to foster greater transparency and accountability, the Postal Service would be required to report about its unfunded liability for workers' compensation payment and about its progress in paying down the liability in the USPS's annual audited Form 10-K reports.

#### *6. Mail processing facility closures*

On July 1, 2012, in order to reduce its costs and respond to the declining volume of First-Class Mail, the Postal Service implemented changes to its First-Class Mail delivery standard. The change in the delivery standard reduced the areas in which the Postal Service provides overnight delivery of First-Class Mail and thereby lengthens the delivery window for some First-Class Mail. At the same time, the Postal Service began the process of closing or consolidating mail processing facilities; by reducing overnight delivery service, the Postal Service reduced its need for processing facilities to support the delivery times. This first phase of closures has now been completed, during which the Postal Service consolidated 141 mail processing facilities during 2012 and 2013 and estimates that it thereby generated annualized cost savings of \$865 million thus far as a result.<sup>31</sup> The Postal Service also announced on June 30, 2014 that it plans to resume the network rationalization in 2015, by closing or consolidating up to 82 additional facilities beginning in January and concluding before the heavy-mailing season in the fall of the year.<sup>32</sup> The Postal Service expects this second phase of closings to generate an additional \$750 million in annualized savings.<sup>33</sup>

While the Postal Service maintains that its new delivery service standards, together with its greater efficiencies allow it to continue providing satisfactory service with a smaller processing network, some have raised concerns about whether the closure of processing plants has contributed to an excessive and unanticipated lengthening in delivery times, particularly in rural areas. There have also been related questions raised about how the Postal Service calculates delivery time in determining whether its revised delivery service standards are being met. To help answer these latter questions, the bill directs GAO to conduct a study assessing the Postal Service's method for calculating delivery times.

Notwithstanding the concerns that have been raised, the Committee recognizes the general need for the Postal Service to right-size its network, and has chosen not to curtail or eliminate the Postal Service's existing authority to modify service standards and,

<sup>31</sup> See U.S. Postal Service, News Link, "Network Rationalization Update: USPS to resume efforts early next year." June 30, 2014. <https://liteblue.usps.gov/news/link/2014/07jul/news01s1.htm>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

in the process, restructure its processing footprint. However, the bill does place a temporary moratorium on additional plant closures or changes in delivery standards for a period of two years (or until the completion of the GAO report on delivery times, whichever is later). This is to allow time to understand the full impact of the closures that have already occurred, to assess whether additional closures can be accomplished without harming service, and to see if alternative measures to decrease costs and increase revenues may make further closures unnecessary.

The Committee seeks to ensure, moreover, that employees, customers, and representatives of communities that could be affected by the closure or consolidation of a mail processing facility have an adequate opportunity to provide input before the Postal Service makes a final decision about such a closure or consolidation. S. 1486 would make the process used for facility closures or consolidations more transparent and would ensure interested parties a meaningful role in the decision. Specifically, section 202 of S. 1486 would mandate that the Postal Service provide at least 45 days' advance notice before making a final decision to close or consolidate a facility; that it provide adequate opportunities for public comment; and that it conduct an area mail processing study that includes consideration of a plan to reduce the capacity of the postal facility rather than close it. Before finalizing a closure, the Postal Service would have to publish a written justification for the decision that responds to the public comments and describes the actions the Postal Service intends to take to mitigate any significant negative effects from the closure. The Postal Service would also be required to make reasonable efforts to provide alternatives for those customers who would be affected by the closure of the processing facility. Finally, the bill provides for appeals of plant closures to the Postal Regulatory Commission (PRC) in the same manner that post office closings can be appealed.

### 7. Post offices

In July 2011, the Postal Service announced that it would conduct studies of approximately 3,700 post offices, retail annexes, stations, and branches nationwide for possible closure.<sup>34</sup> The PRC expressed concerns about this plan,<sup>35</sup> as did some Members of Congress. Most importantly, there was significant community concern about the proposal, particularly the impact of potential post office closings on small and rural communities, and questions about whether such impacts were worth the relatively modest projected savings. In response, the Postal Service in December 2011 announced that it would delay the closing or consolidation of post offices and mail processing facilities until May 15, 2012.<sup>36</sup>

In May 2012, the Postal Service announced a new strategy to reduce costs associated with post offices while at the same time en-

<sup>34</sup> Press Release, U.S. Postal Service, *Postal Service Takes Next Steps in Optimizing Retail Network* (July 26, 2011) available at <http://about.usps.com/news/national-releases/2011/pr11-089.htm>.

<sup>35</sup> The PRC issued an advisory opinion on December 23, 2011 stating that the Postal Service's approach failed to provide adequate retail access in the event of a post office closure. Postal Regulatory Commission, *Advisory Opinion on Retail Access Optimization Initiative*, Docket No. N2011-1, at p.1 (Dec. 23, 2011).

<sup>36</sup> Press Release, U.S. Postal Service, *Statement on Delay of Closing or Consolidation of Post Offices and Mail Processing Facilities* (December 13, 2011), available at [http://about.usps.com/news/national-releases/2011/pr11\\_1213closings-v2.pdf](http://about.usps.com/news/national-releases/2011/pr11_1213closings-v2.pdf).

sure that postal customers receive adequate access to retail services. Under this Post Office Structure (“POST”) Plan, the Postal Service conducts meetings in affected communities and gets community input on providing alternate means of retail access, such as allowing a private contractor to establish a so-called “Village Post Office” in a local business or providing retail services through a rural letter carrier, or keeping the local post office open but operating it for a reduced number of hours. The Postal Service estimates that, once fully implemented, the POST Plan will save approximately half a billion dollars annually.<sup>37</sup>

Current law requires the Postal Service to consider several factors in determining whether to close a post office, such as the effect of the closing on the community, the effect on postal employees, whether the closing would undermine effective service for rural communities, and the amount of the projected savings.<sup>38</sup>

The Postal Service must notify the affected public of its intent to close or consolidate a particular post office and hold a 60-day comment period prior to the proposed date of such closure or consolidation.<sup>39</sup> The public may appeal the Postal Service’s decision to the PRC within 30 days after USPS has made its determination to close such post office. The Commission then has 120 days to make a determination about whether proper procedures were followed during the closure process.

Section 203 of S. 1486 builds on these existing legal protections as well as codifying and enhancing the practices under the POST plan, allowing the Postal Service to provide retail alternatives to dedicated post offices while also putting in place safeguards against premature or inappropriate closures. These safeguards are particularly important for individuals in small towns and rural areas. Among other things, S. 1486 requires the Postal Service to consider several options prior to closing a post office, such as consolidating two post offices within a reasonable distance, reducing the number of operating hours at a particular post office instead of closing it, permitting a contractor or rural carrier to provide retail services in the community served by the post office, or implementing another alternative that may be proposed by the community. S. 1486 also requires the Postal Service to consider certain factors before making a final decision to close a post office or reduce its hours.

In addition, S. 1486 also includes additional protections for small, rural post offices, prohibiting the closure of such post offices for a year after enactment and requiring that, thereafter, the Postal Service make certain determinations about the effect of the closing before going ahead.

Finally, S. 1486 requires the Postal Service to establish minimum standards for retail postal services, to make clear the level of retail access that customers can expect, whether that retail access is provided through a traditional post office or alternative means.

<sup>37</sup> Press Release, U.S. Postal Service, *New Strategy to Preserve the Nation’s Smallest Post Offices* (May 9, 2012), available at [http://about.usps.com/news/national-releases/2012/pr12\\_054.htm](http://about.usps.com/news/national-releases/2012/pr12_054.htm).

<sup>38</sup> 39 U.S.C. § 404(d)(2)(A).

<sup>39</sup> 39 U.S.C. § 404(d)(1).

### 8. *Changes to mail delivery schedule*

Mail is currently delivered six days a week to most homes and businesses in the United States, and Congress includes language in annual appropriation bills intended to preserve six-day-per-week delivery service.<sup>40</sup> However, beginning in 1976, there have been a series of proposals to reduce mail delivery to five days a week as a means of reducing operating costs and avoiding rate increases.<sup>41</sup> President Obama proposed allowing the Postal Service to move to five-day delivery as part of the Administration's deficit reduction package,<sup>42</sup> and has included it in the FY 2015 budget.<sup>43</sup>

Faced with steep declines in mail volume, an increase in the number of delivery addresses, and difficult financial circumstances, the Postal Service has argued for some time that it is essential for it to have the authority to move to a five-days-per-week delivery schedule for mail.<sup>44</sup> The Postal Service has estimated that it will save about \$2 billion dollars annually by switching to five-day delivery<sup>45</sup>—and notes that this is more than it can save through any other single operational change.

It is clear that a shift to five-day mail delivery has the potential to save the Postal Service a substantial amount of money (even if there is some dispute about what the precise cost savings are likely to be). However, because reducing the days of delivery involves difficult tradeoffs, including the potential to reduce mail volume further and to diminish an advantage that the Postal Service has over certain of its competitors, it is appropriate to be cautious.

S. 1486 therefore takes a careful and balanced approach to the question of delivery frequency. It provides the Postal Service with the ultimate authority to establish a nationwide delivery schedule of five-days per week if it determines that such a delivery schedule would contribute to the achievement of the Postal Service's long-term solvency. The bill also, however, imposes temporary limitations on this authority, allowing a shift to five-day delivery only when mail volume has fallen to fewer than 140 billion pieces annually (mail volume in FY 2013 was approximately 158 billion pieces), evidencing a continuing decline in mail volume that might necessitate such a substantial change. And in no event would the Postal Service be permitted to move to five-day delivery before October 1, 2017. Together, these restrictions provide some room to see if other measures the Postal Service is undertaking, on its own or pursuant to provisions in this bill, to reduce costs and, at least as impor-

<sup>40</sup> U.S. Congressional Research Service, *The U.S. Postal Service and Six-Day Delivery: History, Issues, and Current Legislation* (R40626) by Wendy Ginsberg, at pp.6–7 (October 17, 2012); see, e.g., P.L. 112–74 (Consolidated Appropriations Act, 2012).

<sup>41</sup> U.S. Congressional Research Service, *The U.S. Postal Service and Six-Day Delivery: History, Issues, and Current Legislation* (R40626) by Wendy Ginsberg, at pp.4–7, 14–20 (October 17, 2012).

<sup>42</sup> Office of Management and Budget, *Living Within Our Means and Investing in the Future: The President's Plan for Economic Growth and Deficit Reduction*, at p.23 (Sept. 2011).

<sup>43</sup> Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2015*, Appendix at page 1362.

<sup>44</sup> The Postal Service proposes that mail be delivered to street addresses Monday through Friday. Mail addressed to P.O. Boxes would continue to be delivered on Saturdays, and Post Offices already open on Saturdays would not be affected by this proposal. In addition, packages would continue to be delivered six days per week, and Priority Mail Express, currently delivered seven days per week, would not be affected. See Statement of Postmaster General and Chief Executive Officer Patrick R. Donahoe, pages 11–12, at “Outside the Box: Reforming and Renewing the Postal Service, Part II—Promoting a 21st Century Workforce,” hearing Before the Senate Committee on Homeland Security and Governmental Affairs, 113th Cong. (Sept. 26, 2013).

<sup>45</sup> See, *id.*



tantly, to innovate and increase revenues, might mitigate the need to reduce delivery frequency.

In addition, if the Postal Service is seeking to switch to five-day delivery, the bill directs the Comptroller General to report to Congress on the extent to which a change in delivery schedule would improve the financial condition of the Postal Service and assist in the efforts of the Postal Service to achieve long-term solvency. If the Comptroller General finds that the proposed change in delivery schedule would *not* substantially improve the financial condition of the Postal Service and assist in the efforts of the Postal Service to achieve long-term solvency, the Postal Service may still proceed with its plan, but it is first required to submit a response to Congress indicating its justification for proceeding so in light of the Comptroller General's findings, and then wait 60 days, to allow for Congressional review.

In authorizing five-day mail delivery, the bill does not affect the days and times that post offices operate, the frequency of delivery to post office boxes, or the delivery schedule for competitive (*i.e.*, non-market dominant) products, such as Priority Mail Express (overnight delivery, formerly called Express Mail). The bill also provides for six-day delivery of packages for at least five years after the date of enactment. Package delivery—a growth area for the Postal Service—is typically a competitive product and therefore would be expected to cover its costs.

#### 9. Conversion of door delivery points

The mode of mail delivery plays an important role in the efficiency and cost of delivery operations. The primary modes of delivery points for the Postal Service are door, curbside, and centralized delivery. Door delivery refers to delivering mail to slots or receptacles at a customer's door. The Postal Service provides curbside delivery to customers who have mailboxes at the curb and that mail carriers can service from their vehicles. Centralized delivery includes cluster boxes and other mail receptacles in a single location, whether at the entrance to an apartment building or grouped together at the end of a block. Door delivery is the most time-consuming, and therefore the most expensive, form of delivery.<sup>46</sup>

S. 1486 encourages the Postal Service in its efforts to convert more addresses from door delivery to less expensive delivery modes. Codifying the Postal Service's existing practice, section 205 would require that the Postal Service provide centralized delivery (e.g., cluster boxes) for all new addresses established after the date of enactment, or, if centralized delivery is not practicable, curbside delivery. The Postal Service also would be required to carry out a program to convert existing business addresses receiving door delivery to centralized or curbside delivery. The Postal Service would further be required to seek out opportunities to convert existing residential addresses, by identifying existing residences that receive door delivery and that are appropriate candidates for conver-

<sup>46</sup>The Postal Service has estimated, for Fiscal Year 2012, average annual costs of about \$380 per delivery point for door delivery, compared with about \$240 for delivery to the curb, and about \$170 for delivery to a central location. In a recent report, GAO casts doubt on the accuracy of these figures, noting that they are based on 20-year-old data. Government Accountability Office, *Delivery Mode Conversions Could Yield Large Savings, but More Current Data Are Needed*, GAO-14-444, (May 12, 2014). Regardless of the specific dollar amounts, however, it is generally agreed that door delivery is considerably more expensive than other delivery modes.

sion and beginning implementation of a program to convert, on a voluntary basis, those addresses to a more cost-effective method of delivery. Customer resistance can sometimes be a barrier to such voluntary conversions, but the Postal Service also reports some success in outreach efforts that have emphasized the environmental benefits and the additional security (where packages left in a locked box rather than on, say, the front steps of a home) that centralized delivery can provide.

#### 10. *Postal rates*

Since November 9, 2007, when the postal ratemaking system required by the Postal Accountability and Enhancement Act (PAEA) went into effect,<sup>47</sup> the Postal Service's ability to raise its prices has been constrained by a rate cap applied at the class level and based on the Consumer Price Index for All Urban Consumers (CPI-U).<sup>48</sup> (The rate cap applies to mail and other "market dominant products," for which the Postal Service has significant market power.) For about six years, the Postal Regulatory Commission has allowed rate increases only within the inflation-based cap. However, the PAEA also authorizes the Postal Service to adjust rates in excess of the rate cap on an expedited basis if justified due to "extraordinary or exceptional circumstances"<sup>49</sup>—known as an "exigent" rate increase. On December 24, 2013, the Commission granted rate relief based on a conclusion that the mail-volume losses arising from the Great Recession of 2008–2009 were such an exigent circumstance.<sup>50</sup> Specifically, the Commission allowed a temporary 4.3 percent exigent rate increase above inflation, which the Postal Service implemented on January 26, 2014, but to be phased out once the revenues lost because of the Great Recession are recovered.<sup>51</sup> The Postal Service's projections indicate that the lost revenues are likely to have been recovered, and that the exigent rate increase is likely to end, sometime during 2015.<sup>52</sup>

However, given that mail volume has declined over the years at the same time that Congress has decided not to dramatically curtail the Postal Service's service obligations, the Committee is concerned that the rate cap does not and will not provide the Postal Service with sufficient revenue to fund its capital needs, maintain statutory service levels, and remain financially viable.

To give the Postal Service at least some of the revenue it needs to meet its current and future service and financial obligations, the Committee considered several options, including replacing the CPI-U rate cap with a cap based on another inflation measure, or even eliminating the cap altogether. However, the Committee ultimately decided, through the adoption of a Carper-Coburn amendment, to

<sup>47</sup> Postal Regulatory Commission, Final Rule, "Administrative Practice and Procedure, Postal Service," 72 Federal Register 217 (November 9, 2007), at pp. 63662–63704.

<sup>48</sup> See 39 U.S.C. § 3622(d)(1), enacted by section 201(a) of the PAEA, Public Law 109–435 (Dec. 20, 2006). The rate cap went into effect under a final rule of the Postal Regulatory Commission, 72 Fed. Reg. 63662–63704 (Nov. 9, 2007).

<sup>49</sup> 39 U.S.C. § 3622(d)(1)(E).

<sup>50</sup> See Postal Regulatory Commission Press Release, "PRC Approves Postal Service Request for Exigent rate Increase; Rejects Permanent Price Increases" (December 24, 2013), [http://www.prc.gov/prc-docs/Newsroom/PressReleases/Exigent%20Rate%20Increase%202%2024%2013%20\(2\)\\_3429.pdf](http://www.prc.gov/prc-docs/Newsroom/PressReleases/Exigent%20Rate%20Increase%202%2024%2013%20(2)_3429.pdf); Postal Regulatory Commission, Order Granting Exigent Price Increase, (Order no. 1926, Docket No. R2013–11, December 24, 2013), [http://www.prc.gov/Docs/88/88645/Order\\_1926.pdf](http://www.prc.gov/Docs/88/88645/Order_1926.pdf).

<sup>51</sup> *Id.*

<sup>52</sup> See *id.* at page 181.

maintain the existing rate cap, but apply it to a baseline consisting of the rate now in effect, which includes the 4.3 percent exigent rate increase above inflation approved by the Commission.<sup>53</sup> With that rate increase permanently included in the rate base from which future inflation-based adjustments will be determined, the Postal Service would not be forced to decrease prices, and customers would have the assurance that the prices they pay now will remain as they are, subject to any increases permitted under the CPI-U rate cap in future years. The bill would also apply the rate cap to all market-dominant products considered together, rather than to each class of mail separately, as is done under the current statute.<sup>54</sup>

According to data provided by the Postal Service, the Postal Service would be in significantly worse financial condition if S. 1486 were enacted without the Carper-Coburn amendment and the CPI-U rate cap were applied without accounting for the 4.3 percent exigent rate increase. Chart 1 included in the Appendix to this report assumes enactment of S. 1486 with the Carper-Coburn rates amendment. Chart 2 included in the Appendix assumes the bill is enacted without the amendment, meaning the exigent rate increase would expire after Fiscal Year 2015 and the rate cap would be applied to a lower baseline. In the first chart, Total Revenue at the Postal Service would remain above \$68 billion and grow to \$73 billion in Fiscal Year 2023, leaving the Postal Service with \$7.1 billion in net cash. In the second chart, the non-rate projections in each category are identical to those on the first chart but, because rates would go down in Fiscal Year 2016, Total Revenue would decline significantly that year and only reach \$71.4 billion in Fiscal Year 2023. With this lower level of revenue over time, the Postal Service would have \$4.8 billion in debt at the end of the ten-year projection rather than a positive cash balance.

In addition to establishing the current postal rates approved by the Commission as the statutory baseline for calculating future adjustment, S. 1486 would also make two key changes to the rate-making process:

1. It would make the ratemaking process less cumbersome, by not requiring that every Postal Service rate increase within the CPI-U cap be submitted to the Postal Regulatory Commission for formal review. Instead, the Committee believes the Commission should only be required to review and affirmatively approve emergency requests to increase rates above the cap, while maintaining the ability of the Commission to review and render a decision on other rate increases pursuant to complaints filed by interested parties or through the Commission's annual compliance review.<sup>55</sup>

2. It would give the Postal Service a role in the review and revision of the ratemaking system. Under current law, the Postal Regulatory Commission would conduct this review in

<sup>53</sup>The bill states that the rate base, which would remain in effect until adjusted under the rate cap, would be the rates in effect on the date of enactment. Since the 4.3 percent exigent rate increase is projected to remain in effect until well into 2014, after the end of the 113th Congress, enactment of the bill would make the exigent rate increase permanent.

<sup>54</sup>39 U.S.C. § 3662(d)(2).

<sup>55</sup>See 39 U.S.C. § 3662 (authorizing rate and service complaints to be lodged with the Postal Regulatory Commission); 39 U.S.C. § 3653 (requiring the Commission to make an annual written assessment of the Postal Service's rates and service and their compliance with applicable requirements.)

2017 (and as appropriate thereafter) and may change the rate-making system by majority vote of its members.<sup>56</sup> The Committee is concerned that this arrangement gives the members of the Commission too much power over the Postal Service's business decisions regarding the prices of its products in the coming years, and therefore gives the Postal Service too little say. Instead, S. 1486 would authorize the Postal Service, not earlier than January 1, 2017, to propose revisions to the rate-making system, which the Commission would review and could veto and send back to the Postal Service. The Committee believes this process has the potential to force the Postal Service and the Commission to come to consensus on any new or revised ratemaking system that might need to be put into place.

#### *11. Postal service innovation*

Current law prohibits the Postal Service, with a few narrow exceptions, from offering anything other than “postal” products. This essentially limits it to hard-copy mail and packages and prohibits it from experimenting in other areas. The Committee is concerned that this restriction is too constraining and prevents the Postal Service from better capitalizing on its assets.<sup>57</sup>

In order to give the Postal Service more authority to make the best and most lucrative use of its unique retail, processing, and delivery network, S. 1486 would relax the restrictions currently placed on the Postal Service while setting up a number of safeguards intended to protect the private sector from unfair and unnecessary competition from the federal government. It would also establish a leadership structure at the Postal Service intended to drive innovation initiatives through the creation of a “Chief Innovation Officer” and set up a temporary independent commission that would examine areas where the Postal Service could find new sources of revenue.

#### *12. Federal Employees’ Compensation Act (FECA)*

S. 1486 includes the Worker’s Compensation Reform Act of 2014 to update and reform FECA,<sup>58</sup> which is the statute governing the worker’s compensation program for federal civilian employees and postal employees. The bill would update and reform FECA in several respects—the first time this 96-year-old law<sup>59</sup> has been substantially updated since 1974.<sup>60</sup> The provisions of the Worker’s Compensation Reform Act that are incorporated into S. 1486 are essentially identical to those approved by the Senate on April 25, 2012 as part of S. 1789, the 21st Century Postal Service Act of

<sup>56</sup> 39 U.S.C. § 3662(d)(3).

<sup>57</sup> For example, the USPS Office of Inspector General reported in July 2012: “The Postal Service could increase the value of Post Office retail facilities and address community needs by evaluating and offering non-postal products and services. New non-postal products are not currently authorized, but pending legislation could provide additional opportunities.” USPS Office of Inspector General, “21st Century Post Office: Non-Postal Products and Services,” Management Advisory (Report Number DA-MA-12-005, July 16, 2012), <https://www.uspsig.gov/sites/default/files/document-library-files/2013/DA-MA-12-005.pdf>. This July 2012 review offered a wide range of non-postal products and services that the Postal Service might appropriately offer, to the benefit of the public as well as to add to the Postal Service’s financial viability, and recommended that the Postal Service develop a strategy to identify, evaluate, and offer the most promising non-postal products and services “when legislation permits.” Id.

<sup>58</sup> 5 U.S.C. §§ 8101 et seq.

<sup>59</sup> See Federal Employee Compensation Act of September 7, 1916

<sup>60</sup> See P.L. 93-416.

2012, and very similar to the provisions that this committee had approved and reported on January 1, 2012, as part of that bill.<sup>61</sup>

The most significant FECA reform in the legislation would make for certain reductions in benefit levels. Under current statute, the FECA program pays a basic benefit for a total disability equal to  $66\frac{2}{3}$  of an injured worker's pre-disability wage if the worker has no dependents; for those with dependents, the benefit rises to 75 percent (called "augmented compensation"). For a partial disability, the benefit is in proportion to the wage-earning capacity that the worker lost. These benefits are adjusted for inflation and are tax-free and continue for as long as the injury or illness renders the individual unable to work. Because those benefits are now generally larger than federal retirement benefits, the program now creates a financial incentive for insured workers to remain on the FECA rule up to and beyond retirement age. Under this legislation, injured worker's FECA benefits would be set at 50 percent of lost wages when workers reach Social Security retirement age. In addition, the augmented compensation under FECA for workers with dependents is out of line with other compensation programs and would be eliminated—under the legislation, injured workers before retirement age who have dependents would receive the same rate of compensation (i.e.,  $66\frac{2}{3}$  percent of lost wages) as those without dependents.

Other key provisions in the Workers' Compensation Reform Act of 2014 include—

- Strengthened back-to-work programs. In addition to removing certain financial disincentives to returning to work, this legislation strengthens several existing programs to help injured workers get back to work.

- Waiting period. Since minor workplace injuries often heal very quickly, the legislation establishes a uniform 3-day waiting period after injury, before FECA compensation is paid; except if the period of disability exceeds 14 days, then the injured worker may receive FECA compensation for those initial three days. (This 3-day waiting provision currently applies to injured postal workers only, and S. 1486 would extend the same provision to all FECA beneficiaries.)

- Increased amount of certain statutory benefits. The legislation would significantly increase the amount of compensation for severe disfigurement and funeral expenses, which amounts are fixed in statute and have not been significantly changed since 1949.

- Independent medical examinations. The legislation would require an independent medical assessment of disability and potential for return to work for beneficiaries after six months in the program and on a regularly scheduled basis thereafter, but no less frequently than every three years. (This assessment must be conducted by a medical professional other than the beneficiary's own doctor, who would remain responsible for treatment and for the initial assessment.)

<sup>61</sup>S.1789, 112th Cong. The only amendment to the Workers' Compensation Reform Act made by the Senate in 2012 was to add provisions—(1) providing those injured while deployed in armed combat additional time to file a claim for FECA benefits; (2) ensuring that deployed employees injured in a terrorist attack overseas while off-duty would receive FECA benefits; and (3) creating an exception from benefit-reduction under the legislation for hardship if someone would be eligible for food stamps if their benefits are reduced. See Congressional Record, 112th Cong., at S2690—S2691 (April 25, 2012).

- Program integrity and compliance. The legislation would require beneficiaries to report any outside income that they receive, would enable cross-matching of FECA records with Social Security data, and contains several additional provisions to strengthen integrity and compliance efforts under FECA.

In considering the provisions to include in S. 1486 (as in S. 1789 in the 112th Congress), the Committee found that FECA reform is necessarily intertwined with the effort to stabilize the Postal Service's finances. Employees of the Postal Service represent a disproportionate number of FECA beneficiaries, and are responsible for a larger share of FECA benefits than are the employees of any federal department or agency. Specifically, approximately 41 percent of injuries, illnesses, and fatalities that resulted in FECA claims during Fiscal Year 2013 involved Postal Service employees.<sup>62</sup> According to the Department of Labor (DOL), in Fiscal Year 2013, injuries and illnesses of USPS employees resulted in 221.5 lost production days per 100 employees, compared with the rest of the federal government that lost 74.4 days per 100 employees.<sup>63</sup> Because FECA costs are so expensive for the Postal Service, the Committee determined that cost-cutting FECA reforms must be included in this legislation to place the Postal Service on a sound financial footing.

Moreover, the Committee determined that applying FECA reforms only to the Postal Service would cause harmful fragmentation and confusion within the FECA program, and also that these reforms would be as valuable and appropriate for non-postal agencies as they are for the Postal Service. Accordingly, the provisions in S. 1486 that reform the federal workers' compensation program apply government-wide.

A more thorough discussion of the need for FECA reform and the key provisions included in the Workers' Compensation Reform Act of 2014 can be found in this Committee's report on S. 1789 in the 112th Congress and in Senate debate on that bill.

### *13. Property management and expedited disposal of real property*

The Committee decided to incorporate into S. 1486 the entire text of the Federal Real Property Asset Management Reform Act of 2014 (Federal Real Property Act), which the Committee earlier approved and reported on November 19, 2013 as S. 1398. The purpose of the Federal Real Property Act is to improve the efficiency and effectiveness of the federal government's management of real property.

Effectively and efficiently managing the government's extensive real property holdings has posed serious and longstanding challenges for the federal government. Problems related to real property management include ineffective management of excess and underutilized property and an overreliance on costly leasing. Compounding these management problems is the fact that agencies that no longer need particular parcels of property face a lengthy and costly disposal process, often causing agencies to keep

<sup>62</sup> Department of Labor, Occupational Safety and Health Administration, Federal Injury and Illness Statistics for Fiscal Year 2013, available at [https://www.osha.gov/dep/fap/statistics/fedprgms\\_stats13\\_final.html](https://www.osha.gov/dep/fap/statistics/fedprgms_stats13_final.html).

<sup>63</sup> Department of Labor, Office of Workers' Compensation Programs, Protecting Our Workers and Ensuring Reemployment (POWER) Initiative statistics, available at <http://www.dol.gov/owcp/dfec/power/index.htm>.

unnneeded property, and, as a result, the federal government as a whole continues to retain more real property than it needs. The Federal Real Property Act would strengthen the federal government's management of real property by requiring agencies to maintain an up-to-date inventory of real property, establishing an inter-agency Federal Real Property Council to develop guidance on real property management and ensure its implementation, and authorizing a pilot program to expedite the disposal of surplus real property.

The Postal Service, like many other parts of the federal government, has a number of underutilized and excess properties. The Postal Service Inspector General has estimated that the Postal Service possesses 67 million square feet of underutilized or excess space that can either be better utilized for cost savings or sold for revenue.<sup>64</sup> The Federal Real Property Act provides that the Postmaster General may identify a list of postal properties with space available for use by federal agencies and submit that list to the Federal Real Property Council established in the legislation. Then federal agencies must review the list submitted by the Postmaster General and recommend colocations as appropriate.

A full explanation of the Federal Real Property Act, including the weaknesses in the government's management of real property and the ways in which the legislation would improve such management, are provided in the Committee's report on S. 1398.<sup>65</sup>

### III. LEGISLATIVE HISTORY

On August 1, 2013, Senators Carper and Coburn introduced S. 1486, which was referred to the Senate Homeland Security and Governmental Affairs Committee.

Prior to the bill's introduction, the Committee held a hearing on February 13, 2013, titled "Solutions to the Crisis Facing the U.S. Postal Service." The purpose of the hearing was to examine the financial and other challenges facing the Postal Service, and solutions that had been put forward to address those challenges, both proposals by Postal Service management and legislative proposals being considered by Congress. Representatives Darrell Issa and Elijah Cummings, the Chairman and Ranking Member, respectively, of the Committee on Oversight and Government Reform of the House of Representatives, both testified, as did Patrick Donahoe, the Postmaster General of the United States, and Eugene Dodaro, the Comptroller General of the United States. Other witnesses who appeared before the Committee included the Presidents of the American Postal Workers Union, the National Rural Letter Carriers' Association, and the National Association of Postmasters of the United States; and representatives from the private sector and academia.

After the bill's introduction, the Committee held two additional hearings under the heading "Outside the Box: Reforming and Renewing the Postal Service." Part I of this series, subtitled "Main-

<sup>64</sup> United States Postal Service Office of the Inspector General (USPS OIG), Nationwide Facility Optimization Audit Report (Report Number DA-AR-11-09) (August 26, 2011), <http://www.uspsoig.gov/sites/default/files/document-library-files/2013/DA-AR-11-009.pdf>

<sup>65</sup> Federal Real Property Asset Management Reform Act of 2013, Report of the Senate Committee on Homeland Security and Governmental Affairs, to accompany S.1398, S. Rep. 113-122, 113th Cong., 1st Sess. (Nov. 19, 2013), <http://www.gpo.gov/fdsys/pkg/CRPT-113srpt122/pdf/CRPT-113srpt122.pdf>

taining Services, Reducing Costs, and Increasing Revenue through Innovation and Modernization,” was held on September 19, 2013, and focused on postal services, including delivery schedules, delivery standards, and post office services; potential changes in the postal ratemaking system; and innovation, including the potential offering of new products and services. Postmaster General Donahoe; Ruth Goldway, the Chairman of the Postal Regulatory Commission (PRC); and David Williams, the Inspector General of the Postal Service, appeared as witnesses. The Presidents of the American Postal Workers Unions and the National Rural Letter Carriers’ Association also testified, as did executives of three private sector companies and/or associations.

Part II of the series, subtitled “Promoting a 21st Century Workforce,” was held on September 26, 2013, and focused on issues related to the postal workforce, including matters related to health care and pensions for postal workers and the manner in which the Postal Service calculates and funds these obligations; and the evolving role of postal workers in the digital age. Postmaster General Donahoe again testified, as did Jonathan Foley, the Director of Planning and Policy Analysis at the Office of Personnel Management (OPM), and two representatives of the Government Accountability Office (GAO), including the Chief Actuary and a director on GAO’s health care team, the Presidents of the National Association of Letter Carriers, the National Mail Handlers Union, and National Association of Postmasters of the United States, as well as two policy institute leaders.

The Committee considered S. 1486 at a business meeting that was begun on January 29, 2014 and was continued on February 6, 2014. The legislation was ordered reported favorably by a roll call vote with several adopted amendments<sup>66</sup>:

A Carper-Coburn substitute amendment makes a number of changes to the bill as introduced. These include changes to provisions about how the Postal Service’s Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) pension obligations are calculated (to reflect postal-specific demographic information); how future FERS surpluses would be handled; negotiations over pension benefits with respect to TSP; the postal service-only health care program and its coordination with Medicare; funding of the Postal Service’s liability for workers’ compensation payments; the timing of the moratorium against changes in delivery service standards; procedural requirements for closing of processing plants; procedural protections before closing or reducing the hours for post offices; the circumstances under which the

<sup>66</sup> A number of additional amendments were offered but not adopted. These include a Tester amendment to strike Title V of the bill, dealing with the Federal Employees’ Compensation Act, which was not adopted by a roll call vote of 6–7; a Tester amendment to limit application of the bill’s changes to the Federal Employees’ Compensation Act to Federal employees hired after the date of enactment of the Postal Reform Act, which was not adopted by a roll call vote of 7–8; a McCain amendment that would allow the Postal Service to immediately move to a five-day-per-week mail delivery schedule, which was not adopted by voice vote; and a Paul amendment that would prohibit the Postal Service from entering into collective bargaining agreements or agreeing to no-layoff clauses in contracts, and allow the Postal Service to file for bankruptcy, which was not adopted by a roll call vote of 4–11. In addition, Senator Paul withdrew an amendment that would have allowed the carrying of firearms into post offices where otherwise permitted by state or local law after a Carper second degree amendment that would have first required a joint report and recommendations of relevant federal agencies was adopted by a roll call vote of 9–6. A subsequent agreement, entered into by unanimous consent, provided for a vote on an amendment identical to the amendment originally filed by Senator Paul; that Paul amendment was not adopted by a roll call vote of 6–9.



Postal Service would be permitted to move from six-day to five-day delivery of mail; the PRC's review of major service changes; and the Postal Service's authority to modify the postal rate system. The substitute was adopted by unanimous consent. Senators Carper, Levin, Pryor, McCaskill, Tester, Baldwin, Coburn, McCain, Johnson, Paul, Enzi, and Ayotte were present.

A Levin amendment prohibits the Postal Service from entering into contracts that restrict Congressional oversight. The amendment was adopted by voice vote. Senators Carper, Levin, Pryor, McCaskill, Tester, Baldwin, Coburn, McCain, Johnson, Paul, Enzi, and Ayotte were present for the vote.

Another Levin amendment, as modified, provides for notification and local participation in the expedited disposal process for real property in Title VI of the bill. The amendment was adopted by voice vote. Senators Carper, Levin, McCaskill, Begich, Baldwin, Heitkamp, Coburn, Johnson, Enzi, and Ayotte were present.

A Pryor amendment provides certain postal employees the right to appeal significant personnel actions to the Merit Systems Protection Board. The amendment was adopted by voice vote. Senators Carper, Levin, Pryor, McCaskill, Tester, Begich, Heitkamp, Johnson, and Ayotte were present.

An additional Pryor amendment clarifies that those who apply for waivers based on physical hardships in order to continue to receive door delivery of mail will not be charged for either the waiver application or the actual waiver. The amendment was adopted by voice vote. Senators Carper, Levin, Pryor, McCaskill, Tester, Begich, Baldwin, Coburn, McCain, Johnson, Paul, Enzi, and Ayotte were present.

A Landrieu amendment requires the Postmaster General to submit a report on the feasibility of a pilot program to implement the use of natural gas and propane for its heavy-duty, over-the-road trucks. The amendment was adopted by voice vote. Senators Carper, Levin, Pryor, McCaskill, Tester, Begich, Baldwin, Coburn, McCain, Johnson, Paul, Enzi, and Ayotte were present.

A McCaskill amendment imposes a one-year moratorium on closing rural post offices; amends the additional determinations necessary for closing a rural post office and makes the requirement for the additional determinations permanent; and, for 10 years, requires that the Inspector General of the Postal Service report on the projected and actual cost savings from closing rural post offices. The amendment was adopted by voice vote. Senators Carper, Levin, Pryor, McCaskill, Tester, Begich, Baldwin, Heitkamp, Coburn, McCain, Johnson, Paul, Enzi, and Ayotte were present.

A Tester amendment conditions the end of the two-year moratorium on changes in delivery standards on GAO's completion of the report on delivery times required by section 201(b). The amendment was adopted by voice vote en bloc. Senators Carper, Levin, Pryor, McCaskill, Begich, Heitkamp, Coburn, Johnson, Paul, and Ayotte were present.

Another Tester amendment, as modified, reinstitutes the delivery service standards for First-Class Mail and periodicals in effect on June 30, 2012 for routes on which such mail was transported under Alternate Means of Transportation contracts, and require that such service standards be maintained for two years after enactment of this Act. The amendment also puts in place additional require-

ments before service under Alternate Means of Transportation contracts can be discontinued. The amendment was adopted by a roll call vote of 8–7, with Senators Levin, Pryor, Landrieu, McCaskill, Tester, Begich, Baldwin, and Heitkamp recorded as a yes vote, and Senators Carper, Coburn, McCain, Johnson, Paul, Enzi, and Ayotte recorded as a no vote. Senators Carper, Levin, Tester, Begich, Heitkamp, Coburn, Johnson, and Paul were present.

A Begich amendment makes two changes in the rules governing pay and benefits for managerial and supervisory employees. First, it clarifies that changes to pay and/or benefits, including the termination of a benefit, for managers cannot occur outside the designated time period for pay consultation between the managers' organizations and the Postal Service unless mutually agreed upon. Second, it requires that the mandated differential in rates of pay between craft employees and managers be calculated based on both pay and benefits. The amendment was adopted by voice vote. Senators Carper, Levin, McCaskill, Begich, Heitkamp, Coburn, and Johnson were present.

A second Begich amendment clarifies that shipments of alcohol, as permitted under section 303, must comply with state, local and tribal laws. The amendment was adopted by voice vote. Senators Carper, Levin, McCaskill, Begich, Heitkamp, Coburn, Johnson and Ayotte were present.

A third Begich amendment requires the PRC to examine how the recent reclassification of Parcel Post to a competitive product may affect certain communities that are largely inaccessible by road and which rely on the Postal Service for delivery of basic goods, and whether the Postal Service still exercises monopoly power with respect to these communities. The amendment was adopted by voice vote. Senators Carper, Levin, McCaskill, Begich, Baldwin, Heitkamp, Coburn, Johnson, Enzi, and Ayotte were present.

A fourth Begich amendment permits the carrying or storing of a firearm in a parking lot of a post office in a manner not inconsistent with State or local law and not in violation of any lease terms. The amendment was adopted by a roll call vote of 15–0, with Senators Carper, Levin, Pryor, Landrieu, McCaskill, Tester, Begich, Baldwin, Heitkamp, Coburn, McCain, Johnson, Paul, Enzi and Ayotte recorded as voting in favor. Senators Carper, Levin, Pryor, McCaskill, Tester, Begich, Heitkamp, Coburn, Johnson, Paul, and Ayotte were present.

A Baldwin-McCaskill amendment, as modified, was offered and was amended by a Carper-Coburn second degree amendment, which fully replaced the text of the underlying amendment.<sup>67</sup> As amended by the second degree amendment, the amendment makes permanent the temporary exigent rate increase approved by the PRC in December 2013 and permits the Postal Service to raise rates beyond that baseline up to the amount of any increase in the Consumer Price Index. It also allows the Postal Service to propose changes to the postal rate system starting in 2017, but only with the review and approval of the PRC. The Carper-Coburn second degree amendment was adopted by a roll call vote of 10–5, with Sen-

<sup>67</sup> As modified, the underlying Baldwin-McCaskill amendment would have kept the exigent rate increase in effect for one year and then permitted rate increases of up to one percentage point above the Consumer Price Index until a new rate system was put in place, scheduled under existing law for 2017.

ators Carper, Levin, McCaskill, Begich, Heitkamp, Coburn, McCain, Johnson, Enzi, and Ayotte voting yes, and Senators Pryor, Landrieu, Tester, Baldwin, and Paul voting no. The Baldwin-McCaskill amendment, as amended by the second degree amendment, was adopted by voice vote. Senators Carper, Levin, Pryor, Tester, Begich, Baldwin, Heitkamp, Coburn, Johnson, and Paul were present for both votes.

A Heitkamp amendment adds the efforts by the Postal Service to recruit and retain a workforce sufficient to meet the strategic needs of the Postal Service to the matters the Strategic Advisory Commission is directed to study and develop a strategic blueprint to address. The amendment was adopted by voice vote *en bloc*. Senators Carper, Levin, Pryor, McCaskill, Begich, Heitkamp, Coburn, Johnson, Paul and Ayotte were present.

Another Heitkamp amendment, as modified and as amended by two second degree amendments offered by Senator Levin, provides for an appeal process to the PRC in the case of the proposed closing of a mail processing plant that is the same as the process used for post office closings. It also directs the Postal Service to respond to the required GAO report evaluating whether any proposed change in delivery schedule from six to five days per week would improve the financial condition of the Postal Service and assist it in achieving long-term solvency and prohibits implementation of a proposed change in schedule until after the Postal Service has submitted its response. The first Levin second degree amendment prohibits the Postal Service from adopting a five-day-per-week delivery schedule before October 1, 2017, and was adopted by voice vote. The second Levin second degree amendment extends the time during which the Postal Service must wait to implement a change in delivery schedule until 60 days after the date on which the Postal Service responds to the GAO report; it was adopted by unanimous consent. The Heitkamp amendment, as amended, was adopted by voice vote. Senators Carper, Levin, Tester, Begich, Heitkamp, Coburn, Johnson, and Paul were present for all three votes.

A McCain amendment requires a study on the environmental impact of moving to five-day-per week mail delivery. The amendment was adopted by voice vote *en bloc*. Senators Carper, Levin, Pryor, McCaskill, Begich, Heitkamp, Coburn, Johnson, Paul, and Ayotte were present.

A Paul amendment limits the number of post offices that may be located in the U.S. Capitol Complex to one in the House of Representatives office buildings and one in the Senate office buildings. The amendment was adopted by voice vote *en bloc*. Senators Carper, Levin, Pryor, McCaskill, Begich, Heitkamp, Coburn, Johnson, Paul, and Ayotte were present.

An Enzi amendment, as modified, requires the Postal Service, when proposing to discontinue a post office, to provide affected communities with relevant information on the costs of operating the post office; to allow local governments to present alternative proposals for providing postal services to the community; and to consider whether to implement such an alternative proposal. The amendment was adopted by voice vote. Senators Carper, Levin, Pryor, McCaskill, Tester, Begich, Baldwin, Heitkamp, Coburn, McCain, Johnson, Paul, Enzi, and Ayotte were present.

The Committee ordered the bill, as amended, favorably reported by a roll call vote of 9–1. Senators Carper, Levin, Pryor, McCaskill, Begich, Heitkamp, Coburn, Johnson and Ayotte voted in favor of the bill, while Senator Tester voted against the bill. Senators McCain and Enzi asked to be recorded in favor of the bill by proxy, while Senators Landrieu, Baldwin, Portman, and Paul asked to be recorded against the bill by proxy.

#### IV. SECTION-BY-SECTION ANALYSIS

##### *Section 1 — Short title*

This section establishes the title of the legislation as the—Postal Reform Act of 2014.”

##### *Section 2 — Table of Contents*

This section sets forth the table of contents for the Act.

##### *Section 3 — Definitions*

This section provides definitions of terms used in the Act.

#### TITLE I: POSTAL SERVICE WORKFORCE

##### *Section 101—Annual Federal Employee Retirement System and Civil Service Retirement System Assessments*

This section would require that, in annually calculating the amounts that the Postal Service must pay to fund postal workers’ annuities under the Federal Employees Retirement System (FERS) and the Civil Service Retirement System (CSRS), the Office of Personnel Management (OPM) must use the demographic and salary-growth characteristics of the Postal Service’s actual workforce, rather than the general characteristics of both postal and non-postal federal employees combined, as OPM does today.

Moreover, if OPM finds that the Postal Service has paid more into the Federal Employees Retirement System (FERS) system than its employees’ annuities under that system will actually cost, this section provides an orderly process by which the surplus can be returned for use by the Postal Service. If the initial calculation shows a surplus as of the end of the fiscal year ending September 30, 2013, the Postal Service may request and receive not more than \$6 billion of the calculated surplus, and must use the refund in 2014 to retire its debt obligations. If the second-year calculation shows a surplus, the Postal Service could request the return of no more than two-thirds of the surplus. Then starting with the third year and for each subsequent year, any overfunding of its FERS account would be refunded to the Postal Service by a series of annual installments through 2047. After the first-year refund, the Postal Service would use these annual refund payments to pay down unfunded liabilities (for retiree health benefits, CSRS, or workers’ compensation under the Federal Employees’ Compensation Act (FECA)) or to pay off Treasury debt. Once all of these liabilities and debts are retired, the Postal Service could use an annual refund for any appropriate other purpose.

Finally, this section modifies the schedule under which the Postal Service must make up for the amount by which it has paid less than its employees’ annuities under the CSRS system will actually cost. Under current law, the Postal Service would need to pay off

that CSRS unfunded liability by a series of annual payments starting on September 30, 2018 and ending on September 30, 2043. This section of the bill requires the Postal Service to make the series of annual payments starting on September 30, 2015 and ending on September 30, 2054.

*Section 102—Postal service authority to negotiate retirement benefit terms for new employees*

This section would allow the Postal Service and each postal labor union to bargain over the retirement package for newly hired postal workers represented by the union. Specifically, the Postal Service and each union would be able to agree to the following kinds of modifications: (1) whether to cease giving some or all new employees credit towards an annuity under the Federal Employee Retirement System (FERS); (2) whether to offer one or more additional retirement benefit plans, for the benefit of some or all new employees; (3) whether and how to adjust the relative amounts that the Postal Service and an employee would contribute to the FERS annuity plan, for those new employees who continue to receive credit towards the annuity; (4) the amounts that an employee and the Postal Service would contribute for a new employee's participation in an additional retirement plan established under the agreement; and (5) whether and how to adjust the amount that the Postal Service would contribute towards new employees' Thrift Savings Plan (TSP) accounts. The bargaining would generally take place between the Postal Service and each union in connection with the general collective bargaining agreement entered into between the Postal Service and the union. However, under this section of the bill, the Postal Service's contribution to new employees' TSP accounts may be modified only by a collective bargaining agreement among the Postal Service and all four unions, and could result in no more than a single Postal-only alternative to the TSP contribution program that applies under statute for federal employees generally.

*Section 103—restructuring of payments for retiree health benefits*

This section would restructure the Postal Service's retiree health pre-funding schedule. The bill would eliminate the existing statutory payment schedule, cancel any outstanding payments owed by the Postal Service, suspend payments until Fiscal Year 2016, and then begin a new payment schedule amortized over 40 years. It would also reduce the pre-funding goal to 80 percent of projected obligations. The bill also recognizes that the amount of these payments should be reduced further as a result of the implementation of the Postal Service Health Benefits Program in section 104.

*Section 104—Postal service health benefits program*

This section would create a new Postal Service Health Benefits Program (PSHBP) within the Federal Employees Health Benefits Program (FEHBP) in which all postal employees and annuitants would participate. The new program would be implemented and administered by the Office of Personnel Management.

The program would require Medicare-eligible postal annuitants enrolled in the PSHBP to also enroll in Medicare, including parts A, B and D. Current annuitants who did not enroll in Medicare

when they became eligible would be allowed to enroll without penalty during a specified period. FEHBP insurers with more than 5,000 postal enrollees would be required to participate in this new postal only program by offering policies that are actuarially equivalent in value to those policies that they offer for other federal employees who receive FEHBP coverage.

This section would provide a small number of employees and annuitants with the option to opt-out the new PSHBP. These opt-out provisions would apply only to—(a) postal employees who are enrolled in plans that will not be offered in the new PSHBP, but at retirement they would have to switch to a plan in the PSHBP and enroll in Medicare parts A, B and D; (b) annuitants who are enrolled in plans that will not be offered in the new PSHBP; and (c) annuitants for whom plans in the PSHBP are not available due to their geographic location.

*Section 105—Arbitration; labor disputes*

This section would require that arbitrators deciding a contract dispute between the Postal Service and one of its recognized unions to take into consideration such relevant factors as the financial condition of the Postal Service, and would state that nothing in the section may be construed to limit the relevant factors that the arbitration board may take into consideration in rendering a decision.

*Section 106—Prefunding and financial reporting with respect to workers' compensation liability*

This section would establish a process under which the Postal Service begins to pay down its unfunded liability for workers' compensation payments that will be owed in future years. The amortization schedule would be calculated with a target of liquidating 80% of the unfunded liability over an amortization period of 40 years, or a rolling period of 15 years, whichever period ends later. Under this plan, the Postal Service would not be required to make an amortization payment in a year when the annual net income does not exceed \$1 billion, and even then, the amount of an amortization payment may not exceed the increment between \$1 billion and the total net income for the year. Also, to foster greater transparency and accountability, the Postal Service would be required to report about its unfunded liability for workers' compensation payment and about its progress in paying down the liability in the United States Postal Service's (USPS) annual audited Form 10-K reports.

*Section 107—Right of appeal to Merit Systems Protection Board*

This section would allow certain mid-level managers at the Postal Service to appeal firings and other adverse personnel actions to the Merit Systems Protection Board. Supervisors and management employees at the Postal Service generally have such appeal rights already, but certain mid-level managers do not, and this section would fill the gap by extending appeal rights to them.

*Section 108—Supervisory and other managerial organizations*

This section clarifies that, when the Postal Service provides reasonable differentials in compensation between front-line employees

and managers, the Postal Service takes benefits, as well as salary, into account.

Second, this section clarifies that changes to pay and/or benefits for managers cannot occur outside the designated time period for pay consultations between the managers' organizations and the Postal Service unless mutually agreed upon.

Third, the law is clarified to say that such consultation must occur before a benefit program is terminated, just as consultation must occur before a benefit program is changed.

## TITLE II: POSTAL SERVICE OPERATIONS

### *Section 201—Maintenance of delivery service standards*

Subsection (a) of this section would require the Postal Service to maintain the delivery service standards for First-Class Mail and periodicals in effect as of October 1, 2013 for a period of two years from the date of enactment, or until the Government Accountability Office (GAO) report required by subsection (b) is submitted, whichever is later.

Subsection (b) would direct GAO to conduct a study about the how the Postal Service measures delivery times for the purpose of determining whether service standards have been met and whether this method of measurement accurately reflects the total period of time that it takes for a mailed item to travel from the postal customer to its final destination. The Comptroller General would be required to submit a report of GAO's findings and its recommendations no later than one year after the date of enactment.

Subsection (c) addresses Alternate Means of Transportation (AMOT) contracts, through which the Postal Service contracts with private air carriers to provide delivery on certain routes. After putting into effect revised delivery service standards in July 2012, which allowed for longer delivery times in certain cases, the Postal Service reduced or eliminated its use of AMOT contracts on some routes. This subsection would reinstitute the delivery service standards for First-Class Mail and periodicals in effect on June 30, 2012 for routes on which such mail was transported under AMOT contracts, and require that such service standards be maintained for two years after enactment of this Act. This subsection would also put in place restrictions on discontinuing AMOT contracts, requiring that, on routes on which mail is transported under AMOT contracts, that the Postal Service consider specific factors before deciding to transport mail by other means, including the effect on the communities and businesses served by the route. A determination by the Postal Service to discontinue service under an AMOT contract and transport mail on a previously served route by other means is required to be in writing, accompanied by findings on the factors required to be considered, and made available to the public at least 60 days before the Postal Service discontinues AMOT service. Finally, this subsection would require the Postal Service, not later than 2 years after the date of enactment of this Act to submit a report on potential cost savings resulting from any decision made in the 2-year period to transport mail using a means other than under an AMOT contract.

*Section 202—Preserving mail processing capacity*

This section would prohibit the Postal Service from closing or consolidating a mail processing facility that was open on October 1, 2013 for a period of two years from the date of enactment, or until the GAO report required by section 201(b) is submitted, whichever is later. In addition, this section would specify certain procedural steps the Postal Service must take and factors it must consider before closing or consolidating a plant, including codifying the current practice whereby the Postal Service conducts an Area Mail Processing study (with the additional requirement that the study look at the possibility of reducing capacity rather than closing a plant) and provides notice, a public meeting, and an opportunity for public comment. Finally, this section provides an opportunity for those served by a postal facility to appeal the decision to close or consolidate the facility to the Postal Regulatory Commission (PRC) in the same manner that post office closings can currently be appealed.

*Section 203—Preserving community post offices*

This section establishes procedures that the Postal Service would be required to follow before deciding whether to discontinue a post office, including soliciting input from communities regarding post office operational changes that could result in financial savings without closings or consolidations. This section builds on the so-called “POSt” plan adopted by the Postal Service in 2012 and that is currently in effect.

Under these procedures, the Postal Service would be required to consider alternatives to discontinuing the post office, including—(1) reducing office hours; (2) contracting out retail services in the area; (3) co-locating retail services with a commercial or governmental entity in the area; (4) providing retail services to affected customers through letter carriers; or (5) an alternative proposal put forward by a local government.

In addition, in making a determination whether or not to discontinue a post office, the Postal Service would be required to consider a range of factors, such as the effect of discontinuing the post office on the community, on businesses in the area, and on postal employees; the proximity and accessibility of other post offices; and whether the discontinuance would result in substantial economic savings to the Postal Service.

This section also requires that the Postal Service make certain additional determinations before discontinuing rural post offices. These include that postal customers served by the post office would continue to receive substantially similar access to essential items, such as prescription drugs; that there is unlikely to be undue economic loss to the community as a result of the closing; that the area served by the post office has adequate access to broadband Internet service; and that there is a road with year-round access connecting the community to another post office that is within a reasonable distance.

If the Postal Service decides, after making the above considerations, to discontinue a post office (rural or otherwise), it would be required to provide a written determination and findings 60 days before closing the post office.



This section would also require that the Postal Service consider certain factors before reducing the number of hours a day a post office operates, including the effect on the community, the proximity of other post offices, and the ability to hire qualified employees, and that it consider which alternative schedules would most effectively mitigate potential negative impacts. The Postal Service would be required to make available a summary of its findings and an explanation of the change in hours during which the post office would be open.

In addition, for a period of 10 years after enactment, any time a rural post office is discontinued under this section, the Inspector General of the Postal Service would be required to examine the actual cost savings resulting from the discontinuance and compare that to the cost savings that the Postal Service had projected would result from the discontinuance. The section directs the Inspector General to report on the findings to the PRC, the Postal Board of Governors, and Congress not later than two years after the date of the discontinuance of the post office.

Finally, this section requires that the Postal Service establish minimum standards for retail postal services.

#### *Section 204—Changes to mail delivery schedule*

This section would allow the Postal Service to establish a nationwide delivery schedule of five days per week if the Postal Service determines that such a delivery schedule would contribute to the achievement of long-term solvency and if total mail volume during any period of four consecutive quarters drops below 140 billion pieces. In no event, however, may the Postal Service establish a five-day delivery schedule earlier than October 1, 2017.

If the Postal Service intends to move to 5-day per week delivery, it is required to identify customers and communities that might be particularly affected by the scheduled change; to develop measures intended to ameliorate any disproportionately negative impacts associated with the change; to implement measures to increase revenues and reduce costs; and report to Congress, the PRC and GAO on these efforts not earlier than two years and not later than six months before the effective date for the change in delivery service.

The Comptroller General would be required to report to Congress within three months of receiving a report from the Postal Service on the extent to which a change in delivery schedule would improve the financial condition of the Postal Service and assist in the efforts of the Postal Service to achieve long-term solvency, as well as on whether the Postal Service has complied with the measures required of it under this section. If the Comptroller General finds that the proposed change in delivery schedule would not substantially improve the financial condition of the Postal Service and assist in the efforts of the Postal Service to achieve long-term solvency or that the Postal Service has not complied with the relevant statutory requirements, the Postal Service is required to submit a response to Congress indicating whether it agrees with the Comptroller General's findings; whether it intends to reevaluate its decision to establish a change in delivery schedule; and, if the Postal Service still intends to establish a change in delivery schedule, the justification for doing so in light of the Comptroller General's findings. The Postal Service would be prohibited from implementing a

change in delivery schedule until 60 days after it submits its response to the GAO report to Congress.

This section also makes clear that it is not intended to affect the delivery frequency on any route for which the Postal Service currently delivers less frequently than six days per week; does not require the Postal Service to deliver mail on Federal holidays; and does not affect the days and times that post offices operate, the frequency of delivery to post office boxes or the delivery schedule for competitive (*i.e.*, non-market dominant) products, such as Priority Mail Express (overnight delivery).

In addition, this section would require that, for five years after the date of enactment, the Postal Service deliver packages six days per week delivery to areas that received six-day package delivery, as of October 1, 2013 and optionally seven days per week where the Postal Service determines it is economically beneficial to the Postal Service to do so. It also requires that, if the Postal Service adopts a delivery schedule of 5 days per week, the Postal Service provide mailers that currently have access to customers' mailboxes on Sundays with the same access on all days on which the Postal Service chooses not to provide mail delivery.

Finally, this section requires that, not later than 180 days after enactment, the Chief Sustainability Officer of the Postal Service conduct an assessment of the environmental impact of moving to a 5-day-per-week delivery schedule and publish the results on the Postal Services website.

#### *Section 205—Delivery point modernization*

This section would require that the Postal Service use the method of delivery that is most cost-effective and in the best long-term interest of the Postal Service. For all new addresses established after the date of enactment, the Postal Service would be required to provide centralized delivery (e.g., cluster boxes) or, if centralized delivery is not practicable, curbside delivery. The Postal Service also would be required to carry out a program to convert existing business addresses receiving door delivery to centralized or curbside delivery. With respect to existing residential addresses, the Postal Service would be required, within nine months of enactment, to identify existing residential addresses that receive door delivery and that are appropriate candidates for conversion and to begin implementation of a program to convert, on a voluntary basis, those addresses to a more cost-effective method of delivery.

In determining the appropriate method of delivery for a new or existing address, the Postal Service would be allowed to provide door delivery if a physical barrier precludes the efficient use of centralized or curbside delivery; if the address is in a registered historic district; or the Postal Service determines that the provision of centralized or curbside delivery would be impractical, not cost effective or otherwise not in the best long-term interest of the Postal Service. In addition, the Postal Service would be required to provide a waiver program for customers for whom door delivery is necessary due to a physical hardship. The Postal Service would be prohibited from charging a fee to apply for a physical hardship waiver or to receive mail through door delivery if a waiver has been granted.

*Section 206—Postal services for market-dominant products*

When the Postal Service proposes to change the nature of postal services relating to market-dominant products, this section would establish a default timeline of 90 days for the PRC to issue an advisory opinion on the proposal, unless an alternative schedule is agreed to between the PRC and the Postal Service. Before issuing its opinion, the PRC must provide notice and an opportunity for public comment and may hold a public hearing on the Postal Service's proposal. The Postal Service would be required to formally respond to the advisory opinion, and generally it would not be allowed to act on its proposed service change until after submitting its response.

*Section 207—Report on pilot program for use of natural gas and propane for postal trucks*

This section would require the Postmaster General, within 180 days after enactment of this Act, to submit a report on the feasibility of a pilot program to implement the use of natural gas and propane as fuels for its heavy-duty, over-the-road trucks, in addition to those natural gas-fueled vehicles already in the postal fleet, as a fuel cost-saving measure.

*Section 208—Capitol complex post offices*

This section would limit the number of post offices that may be located in the U.S. Capitol Complex to one in the House of Representatives office buildings and one in the Senate office buildings.

*Section 209—Lawful possession of firearms in post office parking lots*

This section would permit the carrying or storing of a firearm in a parking lot of a post office in a manner not inconsistent with State or local law and not in violation of any lease terms for the use of the parking lot or the postal facility that the parking lot serves. It would require the Postal Service to amend its regulations accordingly and to post signage in each post office parking lot notifying the public of this change in law. The section makes clear that it does not apply to parking lots that also serve other Federal office buildings or courthouses (e.g., when a post office is located in a Federal office building) and that it does not limit the authority of the Postmaster General to establish workplace rules for Postal Service employees or regulations regarding nonpublic areas of postal facilities.

## TITLE III: POSTAL SERVICE REVENUE

*Section 301—Postal rates*

Under current law, the Postal Service's pricing authority is restricted by a Consumer Price Index (CPI) rate cap on each individual class of mail established in 2006 through the Postal Accountability and Enhancement Act, or PAEA.<sup>68</sup> The PAEA also laid out a set of objectives and factors intended to guide the creation of the current ratemaking system and Postal Service pricing decisions. Finally, the PAEA established that, beginning in 2017, the

<sup>68</sup> 39 U.S.C. § 3622(d)(1), enacted by section 201(a), Public Law 109-435 (Dec. 20, 2006).

PRC must review the ratemaking system and may revise it if it determines that doing so is necessary. There is no requirement that any revised ratemaking system include a rate cap or any other restriction on Postal Service pricing authority.

This section of the bill would adjust the pricing limitations by stating that the rates in effect at the time of enactment, including any exigent rate increase, would become the new base rate for future rate increases. In fact, on December 24, 2013, the Postal Regulatory Commission allowed a temporary 4.3 percent exigent rate increase to make up for the mail-volume losses arising from the Great Recession,<sup>69</sup> and, since the rate increase is projected to end sometime during 2015, the provision will make the 4.3 percent rate increase a permanent part of the base rate.<sup>70</sup> In addition, the bill would apply the rate cap to all market-dominant products considered in aggregate, rather than each product class separately.

That rate structure would remain in place until at least the end of 2016. Beginning in 2017, and as appropriate thereafter, the Postal Service would be permitted, by majority vote of the Board of Governors, to propose a new or revised ratemaking system consistent with the objectives and factors laid out in the provision. Any proposal made by the Board would be submitted to the PRC, which could either adopt it or reject it. No new or revised ratemaking system could be implemented without the approval of the PRC.

Finally, this section would repeal the rate preference that currently allows political committees to pay lower rates for mail.

#### *Section 302—Nonpostal Services*

Under current law, the Postal Service is generally limited to offering “postal” products. The definition of “postal” essentially limits the Postal Service to the processing and transportation of hard-copy mail. The only exceptions are 27 non-postal products that were offered before the enactment of the PAEA and its prospective ban on new non-postal products. This section would modify that ban, giving the Postal Service limited authority to offer non-postal products again. The limitations on this new authority would make it clear that any non-postal products offered by the Postal Service must make use of the Postal Service’s mail processing and distribution network, must be in the public interest, must demonstrate a likely public demand, must not create unfair competition with the private sector; and should be reasonably expected to improve the Postal Service’s net financial condition. Further, it would make clear that non-postal products are subject to the same Federal and state laws and regulations as the private sector. Finally, non-postal products would, like the Postal Service’s competitive products, be required to cover all of their costs.

This section would also permit the Postal Service to offer services on behalf of Federal, state, local, and tribal governmental agencies under appropriate terms, and would require that the Postal Service

<sup>69</sup> See Postal Regulatory Commission Press Release, “PRC Approves Postal Service Request for Exigent rate Increase; Rejects Permanent Price Increases” (December 24, 2013), [http://www.prc.gov/prc-docs/Newsroom/PressReleases/Exigent%20Rate%20Increase%202%2024%2013%20\(2\)\\_3429.pdf](http://www.prc.gov/prc-docs/Newsroom/PressReleases/Exigent%20Rate%20Increase%202%2024%2013%20(2)_3429.pdf); Postal Regulatory Commission, Order Granting Exigent Price Increase, (Order no. 1926, Docket No. R2013–11, December 24, 2013), [http://www.prc.gov/Docs/88/88645/Order\\_1926.pdf](http://www.prc.gov/Docs/88/88645/Order_1926.pdf).

<sup>70</sup> See *id.* at page 181.

report to the Postal Regulatory Commission on the costs and revenues of such services.

*Section 303—Shipping of wine, beer, and distilled spirits*

Under current law, private shippers are permitted to ship alcoholic beverages but the Postal Service is not. This section would authorize the Postal Service to ship wine, beer, and distilled spirits when they are mailed in accordance with the state and local laws that apply to the sender where the product is mailed and that apply to the recipient where the delivery is made. The provision also specifically requires that the recipient be at least 21 years old and present government-issued proof of identity.

TITLE IV: POSTAL SERVICE GOVERNANCE

*Section 401—Board of Governors of the Postal Service*

Under current law, the Postal Service is governed by an eleven-member Board of Governors made up of nine part-time, Senate-confirmed Governors, the Postmaster General, and the Deputy Postmaster General. This section would reduce the size of the Board to nine members and eliminate the Deputy Postmaster General from the Board. It would retain partisan balance among the Governors, and would provide for revised qualifications for Governors. At least one of the Governors who is appointed to fill a position that is vacant on the date of enactment would also be required to have a demonstrated ability to manage and improve financially troubled organizations. Governors would continue to be limited to two terms, and the Chairman of the Board would continue to be elected by the Governors from among the Board members. Individuals currently serving as Governors would be permitted to serve until the expiration of their terms.

In addition, this section would give the Board of Governors the authority to establish an Executive Committee made up of the elected Chairman of the Board and two additional Governors, with no more than two members of the Executive Committee being a member of any one political party. If created, the Executive Committee would be responsible for developing and overseeing the long-term financial solvency of the Postal Service, developing and overseeing the financial plan and budget, and making recommendations on postal operations.

*Section 402—Strategic Advisory Commission on Postal Service solvency and innovation*

This section would establish an independent advisory commission that would provide guidance to the President, Congress, and the Postal Service on enhancing the long-term solvency of the Postal Service and fostering innovative thinking there. The commission would be made up of seven prominent individuals, three of them appointed by the President and one each appointed by each party's leader in the House and Senate. Commissioners may not be current elected officials or officers or employees of the federal government.

The Commission would be charged specifically with studying the current state of the Postal Service; the Postal Service's governance and its organizational and management structures; alternative business models for the Postal Service; potential postal and non-

postal products that the Postal Service could offer; innovations that have been implemented by foreign posts; and efforts to recruit and retain a workforce capable of meeting the strategic needs of the Postal Service, including in rural areas. The Commission would be required to issue a Strategic Blueprint for Long-Term Solvency. It would also be required to conduct a study concerning the advisability of the Postal Service entering into interagency agreements with Federal, State and local agencies. The Commission would terminate 60 days after submission of its Strategic Blueprint and the study on interagency agreements, but in no event later than one year after enactment.

*Section 403—Long term solvency plan; annual financial plan and budget*

This section would require that, within 90 days of enactment, the Postal Service prepare and submit a plan to the Board of Governors describing the actions the Postal Service intends to take to achieve long-term solvency. The Board of Governors is to review it, may request changes, and then is to submit it within 60 days to Congress. The Postmaster General is required to submit updated versions of the long-term solvency plan to the Board of Governors at least annually for five years after enactment, and the Board is required to review each updated version and submit it to Congress.

This section would further require that, for each of the first five fiscal years after enactment, the Postmaster General submit to the Board a financial plan and budget for the fiscal year that is consistent with the goal of promoting the long-term solvency of the Postal Service. The Board is required to review the plan and budget and either approve the plan and budget or direct the Postmaster General to make appropriate revisions, before the budget is submitted to Office of Management and Budget (OMB) as part of the annual budget process.

*Section 404—Chief innovation officer; innovation strategy*

This section would require the Postal Service, within 90 days of enactment, to designate a Chief Innovation Officer. This individual must have expertise and a record of accomplishment in certain key areas, such as the shipping industry, marketing, or new and emerging technology. The Chief Innovation Officer would be charged with leading the development at the Postal Service of new postal and non-postal products and must, within nine months of enactment, publish an innovation strategy for the Postal Service detailing new products to be tested and launched. The Chief Innovation Officer would also be required to submit an annual report on implementation of the innovation strategy for the subsequent 10 years.

*Section 405—Area and district office structure*

This section would require the Postal Service to issue a plan within one year of enactment for reducing the number of area and district offices.

*Section 406—Inspector General of the postal service*

This section provides that the Inspector General of the Postal Service would be appointed by the President subject to confirma-

tion by the Senate. Under present law, the Inspector General is appointed by the Postal Board of Governors.

*Section 407—Postal regulatory commission*

The section would limit members of the Postal Regulatory Commission to two full terms. In addition, this section would require that the Commission, by majority vote, adopt policies that govern the functions of the Commission, including the finances, operations and administration of the Commission, and that the Commission is to review and, if necessary, revise those policies not less than every four years. The section further provides that the Chairman's day-to-day authority to direct executive and administrative functions would be subject to the policies adopted by the Commission.

TITLE V: FEDERAL EMPLOYEES COMPENSATION ACT

*Section 501—Short title; references*

This section says that title V of the bill may be cited as the "Workers' Compensation Reform Act of 2014." The section also provides that, whenever a provision in title V of the bill refers to a statutory section being amended, the provision is in reference to title 5 of the United States Code unless noted otherwise.

*Section 502—Federal workers' compensation reforms for retirement-age employees*

This section would reduce Federal Employees' Compensation Act (FECA) benefits for totally disabled enrollees to 50 percent of the pre-disability wage upon the enrollee reaching full retirement age, as defined in the Social Security Act. For partially disabled enrollees, the benefits would generally be reduced to 50 percent of the pre-disability wage, multiplied by the percentage of wage-earning capacity lost due to the injury.

For individuals whose workplace injury occurred before the date of enactment, section 502 contains provisions that would delay application of the reduced benefit level and provide full exemption for those most severely injured and those already over retirement age. Specifically—

(1) Those who are permanently, totally disabled and unable to return to work would be exempt from this section ("grandfathered"), and their benefit rate would not be reduced to 50 percent. This category of grandfathered individuals is defined under the legislation as those who satisfy any one of the following criteria: (a) lost the use of 2 appendages (e.g., arms/legs); (b) receiving custodial home nursing care or full nursing home care for at least 1 year prior to enactment; or (c) receiving "total disability" wage-loss compensation for at least 3 years prior to enactment or will have done so within the first 3 years after enactment.

(2) Those who are already at the age of retirement on the date of enactment are also exempt from this section.

(3) Those who do not qualify as permanently, totally disabled ("grandfathered") and are not already over the retirement age, the benefit level will be reduced to 50 percent upon reaching retirement age or 3 years after the date of enactment, whichever is later.

*Section 503—Augmented compensation for dependents*

This section would eliminate the additional (“augmented”) compensation in current law for beneficiaries who have dependents.

Also, for individuals whose workplace injury occurred before the date of enactment, section 503 contains provisions to delay application of the reduced benefit level and to provide full exemption for those most severely injured. Specifically—

(1) Those who are permanently, totally disabled and unable to return to work would be exempt from this section (“grandfathered”), and they would continue to receive the additional level of compensation if they have dependents. This definition of grandfathered individuals is the same as the definition of those grandfathered under section 302.

(2) Those who are not permanently, totally disabled (“grandfathered”) would become ineligible to receive augmented compensation 3 years after the bill is enacted.

*Section 504—Schedule compensation payments*

This section would allow individuals receiving workers’ compensation benefits for total or partial disability to simultaneously receive schedule compensation payments if their disability benefits are reduced under sections 502 or 503 of this bill. Schedule compensation payments are specific payments authorized under existing law for certain injuries, such as loss of use of a limb. Under current law, an injured individual is not eligible to receive a schedule compensation payment for an injury simultaneously with benefits for total or partial disability.

*Section 505—Vocational rehabilitation*

This section includes several provisions to strengthen existing programs that help injured workers get back to work:

(1) It would extend existing vocational rehabilitation opportunities, which are now available under FECA for workers who are totally disabled, to be available to those who are partially disabled as well.

(2) It would authorize the Department of Labor (DOL) to pay a federal employer the salary of a beneficiary for up to 3 years as an incentive to hire workers off of the FECA program rolls. Current law permits these payments only to non-federal employers.

(3) It would make compliance with the Return to Work plan developed between the program and the beneficiary a condition of receiving continued benefits (except this condition would not apply to beneficiaries who are over the age of retirement).

*Section 506—Reporting requirements*

This section would mandate that beneficiaries report any outside income they receive to DOL. An employee who fails to comply will lose the right to receive compensation.

*Section 507—Disability management review; independent medical examinations*

This section would require an independent medical assessment of disability and potential for return to work for beneficiaries after 6 months in the program and on a regularly scheduled basis there-



after, but no less frequently than every 3 years. This would not change existing law allowing a FECA beneficiary to choose to see his or her own doctor for treatment and initial assessment. In addition, employing agencies may request that DOL obtain an independent medical examination at any time, and DOL must grant the agency's request if DOL has not already conducted such an examination.

#### *Section 508—Waiting period*

Because minor workplace injuries often heal quickly, FECA provides a 3-day waiting period before compensation begins. For postal employees, FECA's 3-day waiting period comes immediately after the injury, but for non-postal workers the waiting period does not come until after the end of the 45-day continuation-of-pay period.

This section would begin the 3-day waiting period immediately after a work-related injury for all injured employees. As under current law, injured employees may subsequently receive FECA compensation for those 3 days if the period of disability exceeds 14 days.

#### *Section 509—Election of benefits*

If an individual is simultaneously eligible for compensation benefits both under FECA and under a retirement system for federal employees (such as FERS or CSRS), the individual must elect which benefits to receive, and the election will be irrevocable. This section would prevent an injured worker from retroactively claiming workers' compensation benefits after having declined such benefits in favor of federal retirement benefits. This provision is intended to prevent a claimant from electing federal retirement benefits as a means of avoiding required participation in vocational rehabilitation or acceptance of an offered suitable job and then later retroactively electing the potentially more generous workers' compensation benefits.

#### *Section 510—Sanctions for non-cooperation with field nurses*

This section would suspend benefits when an injured worker fails to cooperate with a field nurse. A "field nurse" is defined as a registered nurse who assists DOL in the medical management of disability claims and assists claimants in coordinating medical care, and DOL is authorized to use field nurses to coordinate medical services and vocational rehabilitation services.

#### *Section 511—Subrogation of continuation of pay*

This section would allow the federal government to recover "continuation of pay" (e.g., salary that's continued to be paid to the beneficiary during the 45-day period between the injury and the initiation of FECA disability benefits) from third parties that are liable for the beneficiary's work-related injury.

#### *Section 512—Integrity and compliance*

This section includes several provisions to strengthen integrity and compliance efforts within the FECA program. It would require that, no later than 270 days after enactment, the Secretary of Labor must establish an Integrity and Compliance Program to prevent, identify, and recover improper payments (including those ob-

tained by fraud) for the FECA program. The section would also direct the Secretary to cooperate with other agencies, including the Postal Service, and the agency inspectors general, to prevent, identify, and recover improper payments.

The section would also require the Secretary of Health and Human Services to make the National Directory of New Hires available to the Secretary of Labor, the Postmaster General, the DOL Inspector General, the USPS Inspector General, and GAO, so that they can cross-match that data with claimant data under the FECA program. The Comptroller General is granted access to the National Directory of New Hires under this provision for any audit, evaluation, or investigation, including any audit, evaluation, or investigation relating to program integrity.

*Section 513—Amount of compensation*

This section would increase the amount an injured worker receives for a severe disfigurement of the face, head or neck from a maximum of \$3,500 to a maximum of \$50,000. This section would also increase the amount allowed to reimburse funeral expenses incurred due to a death from a work-related injury from \$800 to a maximum of \$6,000. The limits in the current law have not been significantly changed since 1949.

*Section 514—Terrorism injuries; zones of armed conflict*

This section would provide that a disability or death as a result of “an attack by a terrorist or terrorist organization, either known or unknown,” is “deemed to have resulted from personal injury sustained while in the performance of duty,” under FECA’s “war-risk hazard” provision. This would also codify the current Office of Workers’ Compensation Programs (OWCP) practice of covering such disabilities or deaths as “war-risk hazards.”

This section would also provide continuation of pay for wage loss due to traumatic injury in performance of duty in a designated zone of armed conflict for a period not to exceed 135 days, so long as the employee files a claim for such benefit no longer than 45 days after terminating service in the zone of armed conflict or the employee’s return to the United States, whichever occurs later.

*Section 515—Technical and conforming amendments*

This section contains technical and conforming amendments to the FECA statute in title 5 of the United States Code.

*Section 516—Regulations*

This section would require the DOL to issue regulations to carry out this title of the legislation.

*Section 517—Effective date*

This section would provide that the provisions of this title are to take effect 60 days after the date of enactment, except as otherwise provided.

TITLE VI: PROPERTY MANAGEMENT AND EXPEDITED DISPOSAL OF REAL  
PROPERTY

*Section 601—Short title*

This section gives the legislation in title VI the short title of the “Federal Real Property Asset Management Reform Act of 2014.”

*Section 602—Purpose*

This section states that the bill’s purpose is to increase the efficiency and effectiveness of the federal government in managing its real property by—(1) requiring agencies to maintain an up-to-date inventory of real property; (2) establishing a Federal Real Property Council to develop guidance and ensure the implementation of strategies for better managing federal real property; and (3) authorizing a pilot program to expedite the disposal of surplus real property.

*Section 603—Property management and expedited disposal of real property*

This section adds a new subchapter VII to Chapter 5 of subtitle I of title 40, United States Code.

§ 621. *Definitions*, added to title 40, United States Code, by section 603 of the bill, defines important terms for the bill, including—

“*Council*” means the Federal Real Property Council established under this legislation.

“*Disposal*” means any action that constitutes the removal of any real property from the federal inventory, including sale, deed, demolition, or exchange.

“*Excess property*” is defined as property under the control of a federal agency that the head of the agency determines is not required to meet the agency’s needs or responsibilities. This term does not include postal property.

“*Postal property*” means any building owned by the United States Postal Service.

“*Surplus property*” is defined generally to mean excess property that is not required to meet the needs or responsibilities of any federal agency. However, the term *surplus property* does not include—(1) any military installation; (2) Indian and Native Eskimo property held in trust by the federal government; (3) real property operated and maintained by the Tennessee Valley Authority; (4) any real property the Director of the Office of Management and Budget excludes for reasons of national security; (5) any public lands administered by the Secretary of Interior through the Director of the Bureau of Land Management, the Director of the National Park Service, the Commissioner of Reclamation, or the Director of the United States Fish and Wildlife Service; (6) any public lands administered by the Secretary of Agriculture acting through the Chief of the Forest Service; and (7) any property operated and maintained by the United States Postal Service.

- “*Underutilized property*” means an entire or a portion of a property, including any improvements, that is used—(1) irregularly or intermittently by the accountable federal agency for program purposes of that agency, or (2) for program purposes that can be satisfied only with a portion of that property.

§ 622. *Duties of Federal agencies*, added to title 40, United States Code, by section 603 of the bill, details actions agencies must take in order to improve the management of their real property. Under this section each agency must conduct an inventory of real property under its control and provide detailed information about the inventoried property to the Administrator of the General Services Administration (GSA Administrator) and the Federal Real Property Council (the Council). Additionally, agencies are required to continuously survey their real property to identify excess and underutilized property, report any excess or underutilized property to the GSA Administrator, identify opportunities for colocation with other federal agencies where appropriate, and establish goals that will lead to a reduction of the agency's excess and underutilized real property. Agencies must also provide the Council and the GSA Administrator information on their real property assets to be used for the establishment and maintenance of a government-wide real property database.

§ 623. *Colocation among United States Postal Service properties*, added to title 40, United States Code, by section 603 of the bill, provides that the Postmaster General may identify a list of postal properties with space available for use by federal agencies and submit that list to the Federal Real Property Council. Under this provision, agencies must review this list and recommend colocations if appropriate.

§ 624. *Establishment of a Federal Real Property Council*, added to title 40, United States Code, by section 603 of the bill, would establish the Federal Real Property Council, to be comprised of senior real property officers from each of 24 designated federal agencies, the Controller at the Office of Management and Budget, and the GSA Administrator. The Deputy Director for Management at OMB would chair the Council and designate an Executive Director to assist the Council in carrying out its duties. This provision would require the Council to establish an annual real property asset management plan and to include in that plan performance measures that will enable Congress to track progress in achieving real property goals government-wide and compare the performance of landholding agencies against industry and other public sector agencies. Additionally, this provision would direct the Council to develop a strategy to reduce federal agencies reliance on leasing when building ownership would be more cost-effective. Finally, the Council would be expected to provide guidance to agencies so that property assessments can be uniform across the government.

§ 625. *Federal real property inventory and database*, added to title 40, United States Code, by section 603 of the bill, would direct the GSA Administrator to establish and maintain a single, comprehensive, and descriptive database of all real property under the custody and control of federal agencies. The database must contain the results of agencies' inventory of their real property as described in the first part of this section as well as a list of real property disposals that have been completed within the past year. The Administrator would be required to make the database accessible to the public at no cost within three years of the date of enactment of this bill.

§ 626. *Limitation on certain leasing authorities*, added to title 40, United States Code, by section 603 of the bill, would impose a re-

porting requirement on agencies with independent leasing authority, so that the executive branch and Congress can better monitor whether those agencies' leases reflect the best use of federal resources. (Although GSA is responsible for leasing property on behalf of most federal agencies, certain agencies have independent leasing authority, under which they may enter into leases on their own.) Agencies with independent leasing authority would be required to submit a yearly report to the Council providing detailed information regarding their leasing activity. This section would not apply to the United States Postal Service, the Department of Veterans Affairs, or any property that the President excludes for reasons of national security.

§ 627. *Expedited disposal pilot program*, added to title 40, United States Code, by section 603 of the bill, would establish a pilot program to expedite the disposal of surplus properties. Under this provision, the Director of OMB could authorize the disposal of up to 200 surplus properties each year with priority going to those properties that have the highest fair market value and the greatest potential for disposal. The OMB Director would have to notify the appropriate state or local government when a property in its jurisdiction has been selected for the pilot program. The OMB Director would also be able to remove a property from the pilot and replace it with another property at the Director's discretion. Agencies would be required to make property available for sale within 18 months after receiving a determination from the OMB Director that the property is surplus and has been selected for the pilot program. Failure to do so would prevent the agency from acquiring additional property unless the square footage of the increase is offset through consolidation, colocation, or disposal of another building space from the inventory of that agency.

Under the pilot program, after GSA is reimbursed for the costs of identifying and preparing property for disposal, any proceeds would be distributed as follows: 80 percent would be returned to the Treasury for debt reduction; the lesser of 18 percent or the share of proceeds otherwise authorized to be retained under law would be retained by the agency that owned the property; and up to two percent would be used to fund the homeless assistance grants under § 628. This section would permit the Secretary of the Department of Housing and Urban Development to use funds made available through sales proceeds for grants to eligible private non-profit organizations through the continuum care program established under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11381 *et seq.*). If a property that has been selected for disposal under the pilot program has not been disposed of after two years in the program, it may be conveyed to state and local governments or non-profit organizations for certain public purposes, unless the predominant use of the property is not for housing, the area of the property is not less than 25,000 square feet, or the appraised fair market value of the property is greater than \$1 million.

§ 628. *Homeless assistance grants*, added to title 40, United States Code, by section 603 of the bill, would require the Secretary of Housing and Urban Development, using funds from the disposal pilot program under § 628, to make grants to eligible private non-profit organizations to purchase real property suitable for use to

purchase or rehabilitate real property to provide housing or temporary shelter to the homeless. The Secretary would give preference to areas in which Federal real property is sold under the disposal program under § 626.

*Section 604—Report of the comptroller general*

This section would require the Comptroller General of the United States, within five years of enactment, to submit a report to Congress on the expedited disposal program established in this legislation.

*Section 605—Technical and conforming amendment*

This section contains a technical and conforming amendment to the table of contents for chapter 5 of subtitle I of Title 40, United States Code.

## V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of S. 1789. The Congressional Budget Office states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would impose no costs on state, local, or tribal governments, or private entities. The enactment of this legislation will not have significant regulatory impact.

## VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JULY 14, 2014.

Hon. TOM CARPER, *Chairman,*  
*Committee on Homeland Security and Governmental Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1486, the Postal Reform Act of 2014.

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.

*S. 1486—Postal Reform Act of 2014*

Summary: S. 1486 would change the laws that govern the operation of the United States Postal Service (USPS). Major provisions of the bill would:

- Extend a rate increase that would expire under current law;
- Permit the Postal Service to reduce mail delivery from six days per week to five;
- Authorize the Postal Service to phase out delivery of mail directly to customers' doors (for business addresses only);
- Change the payments that the Postal Service is required to make relating to the Postal Service Retiree Health Benefits Fund (PSRHBF);
- Direct the Postal Service to make payments to liquidate its liability for workers' compensation obligations;

- Transfer \$2.4 billion in surplus retirement contributions from the Civil Service Retirement and Disability Fund (CSRDF) to the Postal Service Fund;
- Prohibit the Postal Service from closing mail processing facilities for two years;
- Require the use of demographic data specific to Postal Service employees for the calculation of certain retirement benefits;
- Establish a new health benefits program for Postal Service employees, annuitants, and their dependents; and
- Reduce payments to most federal workers receiving benefits under the Federal Employees' Compensation Act (FECA) and modify the administration of that act.

In addition, other provisions of S. 1486 would aim to help the Postal Service reduce its operating costs and increase its revenues.

Effect on the federal budget: CBO estimates that enacting the bill would result in off-budget savings of about \$36 billion over the 2015–2024 period and on-budget costs of about \$19 billion over the same 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 PSRHB and the CSRDF are on-budget.)

Combining those effects, CBO estimates that the net budgetary savings from enacting S. 1486 would be about \$17 billion over the 2015–2024 period. All of those effects reflect changes in direct spending. Enacting S. 1486 would not affect revenues. Pay-as-you-go procedures apply because enacting the legislation would increase on-budget direct spending.

Finally, CBO estimates that implementing S. 1486 would have a discretionary cost of \$3.3 billion over the next 10 years, subject to appropriation of the necessary amounts.

Effects on state, local, and tribal governments, and on the private sector: By making a temporary rate increase for mail services permanent and repealing a discount on postal rates for political committees, S. 1486 would impose intergovernmental and private sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on entities that send certain mail through the USPS. The bill also would impose a private-sector mandate by requiring postal annuitants who receive health insurance through USPS and are eligible for Medicare to enroll in that program. CBO estimates that the aggregate annual costs of complying with the mandates would exceed both the intergovernmental and private-sector thresholds established in UMRA (\$76 million and \$152 million, respectively, in 2014, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1486 is shown in Table 1. The costs of this legislation fall within budget functions 370 (commerce and housing credit), 550 (health), 570 (Medicare), 600 (income security), and 800 (general government).

TABLE 1—SUMMARY OF BUDGETARY EFFECTS OF S. 1486, THE POSTAL REFORM ACT OF 2014

	By fiscal year, in millions of dollars—											
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015–2019	2015–2024
	OFF BUDGET CHANGES IN DIRECT SPENDING <sup>a</sup>											
Estimated Budget Authority ...	–2,972	–2,504	–2,830	–2,966	–4,037	–4,157	–4,174	–4,139	–4,007	–3,877	–15,309	–35,664
Estimated Outlays .....	–2,972	–2,504	–2,830	–2,966	–4,037	–4,157	–4,174	–4,139	–4,007	–3,877	–15,309	–35,664
	ON BUDGET CHANGES IN DIRECT SPENDING											
Estimated Budget Authority ...	4,693	2,601	1,585	1,652	1,259	1,307	1,353	1,473	1,461	1,453	11,789	18,836
Estimated Outlays .....	4,693	2,601	1,585	1,652	1,259	1,307	1,353	1,473	1,461	1,453	11,789	18,836
	TOTAL CHANGES IN DIRECT SPENDING											
Estimated Budget Authority ...	1,720	96	–1,246	–1,313	–2,778	–2,857	–2,820	–2,667	–2,547	–2,424	–3,521	–16,829
Estimated Outlays .....	1,720	96	–1,246	–1,313	–2,778	–2,857	–2,820	–2,667	–2,547	–2,424	–3,521	–16,829
	CHANGES IN SPENDING SUBJECT TO APPROPRIATION											
Estimated Authorization Level	505	483	352	296	294	281	279	281	271	266	1,930	3,308
Estimated Outlays .....	502	483	354	300	296	285	281	282	274	268	1,935	3,325

Note: Components may not add to totals because of rounding. Positive numbers indicate increases in costs; negative numbers indicate reductions in costs.  
 a cash flows of the Postal Service are classified as off-budget.



Basis of estimate: For this estimate, CBO assumes that S. 1486 will be enacted near the end of fiscal year 2014. The bill would affect outlays of the Postal Service Fund, which is off-budget, and the on-budget PSRHB and CSRDF. CBO estimates that the net direct spending savings (combining the off-budget and on-budget effects) would total \$16.8 billion over the 2015–2024 period.

Off-Budget changes in direct spending (Postal Service Fund): CBO estimates that enacting S. 1486 would reduce net USPS spending by \$35.7 billion over the 2015–2024 period; as noted above, USPS spending is classified as off-budget. Details of changes in spending from the Postal Service Fund are summarized in Table 2 and discussed in the following subsections.

TABLE 2—DETAILS OF OFF-BUDGET CHANGES IN DIRECT SPENDING UNDER S. 1486

	By fiscal year, outlays in millions of dollars—										
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015–2024
Extend Rate Increase .....	0	–1,900	–1,900	–1,800	–1,800	–1,750	–1,700	–1,650	–1,600	–1,550	–15,650
Reduction in the Frequency of Mail Delivery .....	0	0	0	0	0	–1,500	–1,450	–1,400	–1,350	–1,300	–8,500
Other Changes in Mail Delivery .....	–30	–150	–300	–500	–500	–550	–800	–850	–800	–750	–5,430
Changes in USPS Payments for Retiree Health Benefits (See Memorandum for details) .....	–1,621	–1,720	–252	–254	–255	–256	–258	–260	–261	–263	–5,399
Prefunding for Workers Compensation Obligations .....	0	0	0	0	500	500	500	500	500	500	3,000
Transfer of Surplus Postal Retirement Contributions .....	–2,400	0	0	0	0	0	0	0	0	0	–2,400
Prohibition on Closing Mail Processing Facilities .....	600	800	0	0	0	0	0	0	0	0	1,400
Use of Postal Specific Data for Retirement Benefits .....	478	478	–333	–334	–334	–335	–336	–337	–339	–340	–1,731
Establish PSRB program for USPS .....	0	–11	–37	–53	–60	–65	–74	–69	–79	–85	–531
Effect of Changes in Workers' Compensation on USPS .....	0	–2	–8	–26	–38	–52	–61	–69	–79	–89	–424
Total Off-Budget Changes .....	–2,972	–2,504	–2,830	–2,966	–4,037	–4,157	–4,174	–4,139	–4,007	–3,877	–35,664
MEMORANDUM: DETAILS OF CHANGES IN USPS PAYMENTS FOR RETIREE HEALTH BENEFITS											
Under Current Law:											
Estimated Payments to FEHB .....	3,241	3,439	0	0	0	0	0	0	0	0	6,680
Specified Payments to PSRHB <sup>a</sup> .....	0	0	0	0	0	0	0	0	0	0	0
Estimated Payments for Normal Costs <sup>b,c</sup> .....	0	0	2,458	2,574	2,679	2,819	2,991	3,174	3,364	3,566	23,625
Estimated Amortization Payments <sup>c</sup> .....	0	0	3,490	3,490	3,490	3,490	3,490	3,490	3,490	3,490	27,920
Total, Current Law .....	3,241	3,439	5,948	6,064	6,169	6,309	6,481	6,664	6,854	7,056	58,225
Under S. 1486:											
Estimated Payments to FEHB .....	0	0	0	0	0	0	0	0	0	0	0
Specified Payments to PSRHB <sup>a</sup> .....	0	0	0	0	0	0	0	0	0	0	0
Estimated Payment for Normal Costs <sup>d</sup> .....	0	0	2,409	2,523	2,625	2,763	2,931	3,111	3,297	3,495	23,153
Estimated Amortization Payments <sup>d</sup> .....	0	0	3,034	3,034	3,034	3,034	3,034	3,034	3,034	3,034	24,275
Subtotal .....	0	0	5,443	5,557	5,660	5,797	5,966	6,145	6,331	6,529	47,428
Changes in Other USPS Spending .....	1,621	1,720	252	254	255	256	258	260	261	263	5,399
Total, S. 1486 .....	1,621	1,720	5,696	5,810	5,914	6,053	6,223	6,404	6,593	6,793	52,826
Changes in Payments for Retiree Health Benefits .....	–1,621	–1,720	–252	–254	–255	–256	–258	–260	–261	–263	–5,399

Notes: Components may not add to totals because of rounding. USPS = United States Postal Service; PSRB = Postal Service Health Benefits; FEHB = Federal Employees Health Benefits; PSRHB = Postal Service Retiree Health Benefits Fund.

<sup>a</sup> Under current law, the Postal Service is required to pay a total of \$11.5 billion to the PSRHF in 2015 and 2016. However, CBO expects that the agency will not make any of those payments.

<sup>b</sup> Those payments are equal to the annual increase in retiree health care liabilities attributable to current employees.

<sup>c</sup> Those costs are based on information provided by the Office of Personnel Management.

<sup>d</sup> S. 1486 would require the Postal Service to make normal and amortization payments in 2016, but CBO expects the Postal Service would not make those payments.

Extend rate increase. In December 2013, the Postal Regulatory Commission (PRC) approved a 4.3 percent rate hike for first-class mail and other services, including an increase in the price of a first-class stamp from \$0.47 to \$0.49, but limited the effect of this change to a period of about two years. S. 1486 would make that increase permanent.

Based on information from the Postal Service, CBO estimates that extending the recent rate hike would increase USPS net revenues by \$1.9 billion in 2016 and by \$15.7 billion over the 2016–2024 period. We expect that annual savings would decline in 2018 and subsequent years because of falling mail volume and because some of the savings would probably be spent by the Postal Service or returned to mailers in the form of lower rates rather than accumulated as large annual surpluses in the Postal Service Fund.

Reduction in the frequency of mail delivery. Beginning in fiscal year 2018, S. 1486 would permit the Postal Service to deliver mail five days a week, but only if the total volume of first-class mail and periodicals falls below 140 billion pieces over a 12-month period. The aggregate first-class and periodicals volume was about 147 billion in 2013 and has been declining for many years. The Postal Service anticipates that volume will drop below 140 billion pieces sometime in 2018.

Under the bills provisions, the Postal Service expects that beginning in 2019 it would eliminate most mail delivery on Saturdays but continue to deliver packages six days a week. The Postal Service estimates that this reduction in service would yield net savings of \$1.9 billion annually, mostly in personnel and transportation costs. The agency assumes that most mail currently delivered on Saturdays could be delivered on Mondays with minimal increased costs.

The PRC has not prepared an estimate of savings from this proposal. However, in 2011 the PRC estimated that reducing both mail and package delivery from six to five days per week would save \$1.7 billion a year—compared to the USPS estimate of \$3.1 billion in annual savings for that proposal—largely because it disagreed with the Postal Service’s assumption that Saturday mail could be delivered on Mondays with minimal increased costs. In addition, earlier this year an independent firm estimated savings for ending Saturday delivery of mail (but not packages) that were roughly 50 percent lower than the USPS estimate of that proposal.<sup>1</sup>

Based on the current estimates prepared by USPS and considering the past disparity in estimates made by USPS and other entities, CBO estimates that reducing mail delivery from six to five days per week under S. 1486 would save about \$1.5 billion (or roughly 80 percent of the USPS estimate) annually beginning in fiscal year 2019. Beginning in 2021, we expect that annual savings would gradually decline as some of those funds would probably 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 net annual savings would fall to \$1.3 billion by 2024.

<sup>1</sup> [http://www.prc.gov/prc-docs/home/whatsnew/Swiss%20Economics%20Model%20-%20Saturday%20delivery%20Final%20Report%20V3\\_3545.pdf](http://www.prc.gov/prc-docs/home/whatsnew/Swiss%20Economics%20Model%20-%20Saturday%20delivery%20Final%20Report%20V3_3545.pdf).

Other changes in mail delivery. USPS delivers mail to the doors of customers, to curbside receptacles, and to centralized mail receptacles that serve multiple addresses. S. 1486 would require the Postal Service to convert all business (but not residential) addresses with door delivery to curbside or centralized delivery.

In 2013, the Postal Service provided door delivery for about 6 million business addresses. Upon enactment of S. 1486, the USPS expects that it would change the means of delivery for about 500,000 addresses in 2015 and about a million addresses annually over the 2016–2020 period. We anticipate that nearly all the conversions would be to centralized delivery for the affected businesses.

Based on information from the Postal Service about the savings per business address from implementing curbside and centralized delivery as compared to door delivery, netted against costs to install and maintain curbside and centralized mail receptacles, CBO estimates that annual savings under S. 1486 would grow to about \$850 million by 2022 and would total \$5.4 billion over the 2015–2024 period. Beginning in 2023, we expect that annual savings would gradually decline as some of those funds would probably be spent by the Postal Service or returned to mailers in the form of lower rates. This estimate of savings reflects the assumption that mail would be delivered five days a week as authorized by the bill.

Changes in USPS payments for retiree health benefits. CBO estimates that the bill's provisions that would change payments relating to the PSRHBFB would result in off-budget savings of \$5.4 billion over the 2015–2024 period, as discussed below and shown in detail in the memorandum section of Table 2.

*Background on Postal Service Obligations for Retiree Health Care.* The Postal Service is obligated to contribute toward the health insurance premiums of its retired employees who participate in the Federal Employees Health Benefits (FEHB) program. Under current law, CBO expects that the agency will make direct payments for retirees' premiums to the on-budget FEHB fund for 2015 and 2016 totaling \$6.7 billion. Over the same period, the Postal Service also is required to make statutorily specified payments to the on-budget PSRHBFB to prefund future retiree health obligations. Because of the Postal Service's poor financial condition, however, it has not made those statutorily specified payments since 2010, and CBO expects that the agency will not make the remaining specified payments for 2015 and 2016.

Beginning in 2017, the PSRHBFB is expected to start making payments to the FEHB program for the Postal Service's share of those premiums. Under current law, the Postal Service is required to make payments to the PSRHBFB, starting in 2017, to cover the future health care liabilities accruing to current employees ("normal costs") and to liquidate the unfunded liability for retirees' health benefits ("amortization payments"). CBO estimates that prefunding payments for normal costs and amortization will sum to \$51.5 billion over the 2017–2024 period.

*Changes in USPS Payments for Retiree Health Benefits Under S. 1486.* The bill would make several changes in the timing and source of funds for payments for retiree health benefits.

In particular, S. 1486 would:

- Eliminate the requirement for the USPS to make direct payments to the FEHB fund in 2015 and 2016 and would authorize PSRHBf payments for the agency's share of FEHB retiree premiums in 2015 and 2016 instead;
- Eliminate the requirement for the USPS to make specified payments to the PSRHBf for 2015 and 2016 to prefund retiree health benefits; and
- Require the USPS to begin making annual payments to the PSRHBf for normal and amortization costs in 2016 instead of beginning in 2017 (though the new amortization payments would need to cover just 80 percent of the unfunded liability for retirees' health benefits).

Because of the Postal Service's poor financial condition, CBO does not expect that the Postal Service would make the normal and amortization payments to the PSRHBf required by the bill in 2016 (though we expect that such payments will occur under current law and under the bill in subsequent years).

CBO estimates that eliminating the requirement to make direct payments to FEHB would reduce USPS spending on retiree health benefits by \$6.7 billion over the 2015–2024 period.

As a result of the PSRHBf payments to the FEHB fund in 2015 and 2016, the bill is expected to reduce the PSRHBf balance relative to current law and to increase the estimated unfunded liability for USPS retiree health benefits by the end of 2016. However, that effect would be offset by the bill's requirement to fund 80 percent rather than 100 percent of the unfunded liability and by a relatively small decrease in PSRHBf spending resulting from the new Postal Service Health Benefits (PSHB) program discussed below. After amortizing the lower unfunded liability over a 40-year period, we expect that the Postal Service would be charged lower amortization payments over the 2017–2024 period. In addition, we estimate there would be a small decrease in normal payments stemming from the new PSHB program. CBO estimates that USPS costs associated with those payments would decrease from \$51.5 billion to \$47.4 billion, or \$4.1 billion less, over the 2017–2024 period.

*Changes in Other USPS Spending.* CBO expects that lowering health care expenses for the USPS would lead the agency to modify its ongoing efforts under current law to reduce spending. In 2009, the Postal Service began cost-cutting actions including closing administrative offices, halting construction of new facilities, and freezing salaries for certain employees. More recently, the agency has implemented more-severe measures such as closing mail processing facilities, making major reductions in service, and either deferring or failing to make certain required payments to the Treasury.

CBO expects that enacting legislation to lower health care expenses for the USPS would lead the agency to alter its cost-reduction program by cutting spending less aggressively than it would without the legislation. We estimate that the net increase in such USPS outlays over the 2015–2024 period would be about half of the potential gross savings—about \$5.4 billion.

Prefunding for workers' compensation obligations. The bill would require the Postal Service, beginning in fiscal year 2017, to calculate the actuarial liability of its workers' compensation obligations and to make a series of annual payments that would liquidate

80 percent of the liability over a 40-year period. The agency would start making those annual payments in fiscal year 2018 and subsequent years to a new fund, known as the Postal Service Workers' Compensation Accrued Liability Fund, unless its net income for the previous year (computed on an accrual accounting basis) was less than or equal to \$1 billion. For this estimate, CBO anticipates that the fund would be classified as on-budget, consistent with past precedents, and thus that payments from USPS to the fund would represent off-budget costs and on-budget receipts.

Based on USPS projections of net accrual income under current law, and considering the total savings to the agency anticipated from enactment of S. 1486, we expect that the Postal Service's net accrual income would exceed \$1 billion for each year over the 2019–2024 period. Based on information provided by the Postal Service on its anticipated liability for workers' compensation obligations in 2019 and subsequent years, we estimate that the agency would make amortization payments of \$500 million each year beginning in 2019.

Transfer of surplus postal retirement contributions. S. 1486 would authorize the Postal Service Fund to receive a transfer of any surplus in the USPS Federal Employees Retirement System (FERS) account within the CSRDF as of the end of fiscal year 2013. Any funds transferred would have to be used to pay off USPS debt to the Treasury. The bill would require the Office of Personnel Management (OPM) to use economic and demographic factors (such as salary growth and retirement rates) specific to Postal Service employees, rather than government-wide data, to calculate any such surplus.

Using data specific to the Postal Service, OPM estimates that the USPS surplus for its FERS account in the CSRDF was \$2.4 billion as of September 30, 2013. Under the bill, CBO estimates that \$2.4 billion would be transferred from the CSRDF to the Postal Service Fund in fiscal year 2015. That intragovernmental transfer would be classified as a savings of \$2.4 billion in off-budget direct spending for the Postal Service Fund in 2015. (The transfer also would result in a cost of \$2.4 billion to the on-budget CSRDF as discussed later.)

Prohibition on closing mail processing facilities. S. 1486 would require the Postal Service to maintain the delivery service standards for first-class mail and periodicals that were in effect on October 1, 2013, for at least two years after the bill's enactment. The bill also would block the Postal Service from closing or consolidating any postal facility that was open on October 1, 2013, for at least two years after the bill's enactment. Based on information from the Postal Service, we estimate that those new requirements would cost \$1.4 billion over the 2015–2016 period by delaying the agency's plans to close facilities and implement slower mail delivery service.

Use of postal-specific data for retirement benefits. S. 1486 would direct OPM to use economic and demographic factors specific to Postal Service employees, rather than government-wide data, to calculate the annual employer contribution that USPS is required to make to federal retirement accounts under FERS and the Civil Service Retirement System (CSRS). The bill also would change the

schedule of CSRS amortization payments currently required of the Postal Service.

For 2013, the Postal Service made nearly \$2.9 billion in contributions to the CSRDF for FERS employees. The agency currently makes no contributions for CSRS employees; under current law, beginning in fiscal year 2017, the Postal Service will make annual payments, amortized over 27 years, to liquidate any unfunded liability as estimated by OPM for retirees' CSRS pension benefits. (The unfunded liability is the total liability accrued to date for retirees' pension benefits minus the portion of the CSRDF attributable to Postal Service contributions.) S. 1486 would require the Postal Service to begin annual payments in 2015, amortized over 40 years, to liquidate the unfunded liability.

Based on information from OPM, CBO estimates that enacting S. 1486 would lower the Postal Service's annual employer contribution to FERS by about \$35 million beginning in 2015 and would lower the amortization payment the agency will make to the CSRDF beginning in 2017 by \$630 million per year (the bill would lower the anticipated amortization payment from \$1.62 billion to \$990 million). Those reductions would occur because Postal Service employees tend to have lower salaries and higher mortality rates (when retired) compared to the averages for all federal employees and because the CSRS amortization period would be longer. In addition, CBO estimates that, under the bill's provisions, the Postal Service would make annual CSRS amortization payments of about \$990 million in 2015 and 2016, thus significantly increasing its costs in those years compared to current law.

Over the 2015–2024 period we estimate this provision would result in potential savings of \$3.4 billion. As with some of the bill's other provisions, however, we anticipate that lowering retirement costs would lead the Postal Service to cut expenses less aggressively than it otherwise would. Thus, we estimate net savings to the Postal Service of about \$1.7 billion over the 2015–2024 period, or about half of the potential gross savings.

Establish a Postal Service Health Benefits program. Section 104 of S. 1486 would make several changes to the health insurance program for USPS employees and annuitants. The legislation would direct OPM to establish a new PSHB program in 2016, under which USPS employees and annuitants could enroll to receive health insurance from qualifying plans. Premiums in the PSHB program would be set based on expected health costs of only the USPS employees, annuitants, and dependents participating in the program. In addition, the bill would require all eligible postal annuitants who participate in the PSHB program to enroll in the Medicare program.

CBO estimates that those changes would reduce USPS spending for health insurance premiums by \$1.1 billion over the 2015–2024 period. CBO expects that lowering health care expenses for the USPS would lead the agency to reduce other spending less aggressively than it would without the legislation. Thus, we estimate the net reduction in USPS spending over the same period would be about \$0.5 billion, or about half of the potential gross savings from this policy.

CBO anticipates that savings to USPS under section 104 of the legislation would result, in part, from shifting the primary respon-



sibility for certain Medicare-covered services from the PSHB plans to the Medicare program. In addition, PSHB plans would be required to participate in Medicare Part D (in an aspect of the program that other employer sponsored plans can participate in) and would thereby receive subsidies and discounts related to prescription drugs. As a result of both that shift to Medicare and the subsidies and discounts for prescription drugs, CBO estimates that PSHB premiums for postal employees and annuitants would be lower than the FEHB premiums those people would face under current law. (The resulting shift of such costs to Medicare is discussed below under On-Budget Changes in Direct Spending.)

Effect of changes in workers' compensation on the USPS. The bill would make several changes to the Federal Employees Compensation Act, which provides wage replacement and medical benefits to federal employees who are injured in the course of their work. Under FECA, agencies reimburse the Department of Labor (DOL) for expenses incurred on behalf of their employees.

Based on information from DOL, CBO estimates that the changes in S. 1486 (which are discussed below in greater detail in the section on On-Budget Changes in Direct Spending) would reduce gross outlays under FECA by \$1.2 billion over the 2015–2024 period. Those gross savings would be mostly offset by reduced reimbursements from federal agencies of \$1.1 billion during that period, for net savings to the FECA account over 10 years of \$172 million.

Based on historical spending patterns under FECA, CBO estimates that about 40 percent of the gross FECA savings (and, accordingly, the reduced reimbursements) would accrue to the USPS. Thus, CBO estimates that, under provisions of S. 1486, the USPS would pay about \$0.4 billion less in reimbursements to the FECA account over the 10-year period.

On-budget changes in direct spending: CBO estimates that enacting S. 1486 would increase on-budget direct spending by \$18.8 billion over the 2015–2024 period. Those costs result mostly from changes in the cash flows of the CSRDF, which reflects expenditures for civil service retirement benefits, and the PSRHBF, which reflects expenditures on health care benefits for USPS retirees, as shown in Table 3 and discussed below.

Changes in PSRHBF spending. As discussed previously, the bill would change payments that the Postal Service makes for retiree health benefits, and CBO estimates that those changes would increase net on-budget direct spending by about \$10.8 billion over the 2015–2024 period. Those costs result from changes in cash flows of the PSRHBF as displayed in the memorandum to Table 3.

Under the bill, CBO estimates that the PSRHBF would pay the FEHB fund \$3.2 billion in 2015 and \$3.4 billion in 2016 toward health premiums for postal annuitants enrolled in those years. CBO does not expect that the Postal Service will make any of the currently specified payments into the PSRHBF in 2015 or 2016, or that it would begin making payments to cover normal and amortization costs before 2017. Thus, we estimate that the bill's provisions to eliminate the specified payments and require normal and amortization payments in 2016 would have no effect on the PSRHBF. Beginning in 2017, however, we estimate that amortization payments to the PSRHBF would decrease by about \$450 million annually—mostly because the bill would require liquidation of

80 percent of the unfunded liability for retirees health benefits (rather than 100 percent as required under current law). Normal payments to the fund also would decrease as a result of the new Postal Service Health Benefits program.

TABLE 3—DETAILS OF ON BUDGET CHANGES IN DIRECT SPENDING UNDER S. 1486

	By fiscal year, outlays in millions of dollars—											2015– 2024
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024		
Changes in PSRHB Spending (See Memorandum) .....	3,241	3,439	505	507	509	512	515	519	523	527	527	10,797
Postal Service Health Benefits Program .....	0	124	429	516	601	642	683	788	781	764	764	5,328
Use of Postal-Specific Data for Retirement Benefits .....	–957	–956	666	667	669	670	672	675	677	680	680	3,463
Pretfunding for USPS Workers Compensation Obligations .....	0	0	0	0	–500	–500	–500	–500	–500	–500	–500	–3,000
Effect of Changes in Workers Compensation on Non-Postal Agencies .....	6	–8	–17	–40	–22	–19	–19	–11	–22	–20	–20	–172
Transfer of Surplus Postal Retirement Contributions .....	2,400	0	0	0	0	0	0	0	0	0	0	2,400
Federal Property Asset Management Reform .....	2	2	2	2	2	2	2	2	2	2	2	20
Total Changes .....	4,693	2,601	1,585	1,652	1,259	1,307	1,353	1,473	1,461	1,453	1,453	18,836
MEMORANDUM: PSRHB CASH FLOWS												
Under Current Law:												
Specified Payment from USPS <sup>a</sup> .....	0	0	0	0	0	0	0	0	0	0	0	0
Normal Payments .....	0	0	–2,458	–2,574	–2,679	–2,819	–2,991	–3,174	–3,364	–3,566	–3,566	–23,625
Amortization Payments .....	0	0	–3,490	–3,490	–3,490	–3,490	–3,490	–3,490	–3,490	–3,490	–3,490	–27,920
Total, Current Law .....	0	0	–5,948	–6,064	–6,169	–6,309	–6,481	–6,664	–6,854	–7,056	–7,056	–51,545
Under S. 1486:												
FEHB Payment <sup>b, d</sup> .....	3,241	3,439	0	0	0	0	0	0	0	0	0	6,680
Normal Payments <sup>c</sup> .....	0	0	–2,409	–2,523	–2,625	–2,763	–2,931	–3,111	–3,297	–3,495	–3,495	–23,153
Amortization Payments <sup>c</sup> .....	0	0	–3,034	–3,034	–3,034	–3,034	–3,034	–3,034	–3,034	–3,034	–3,034	–24,275
Total, S. 1486 .....	3,241	3,439	–5,443	–5,557	–5,660	–5,797	–5,966	–6,145	–6,331	–6,529	–6,529	–40,748
Changes in PSRHB Spending .....	3,241	3,439	505	507	509	512	515	519	523	527	527	10,797

Notes: Components may not add to totals because of rounding.

USPS = United States Postal Service; PSRHB = Postal Service Retiree Health Benefits Fund; FEHB = Federal Employees Health Benefits.

<sup>a</sup> For fiscal years 2015 and 2016, the Postal Service is required to pay a total of \$11.5 billion to the PSRHB. However, CBO expects that the agency will not make any payments.

<sup>b</sup> Under current law, the FEHB payment would be made from the PSRHB beginning in 2017, so S. 1486 would not affect cash flows over the 2017–2024 period.

<sup>c</sup> IAS 1486 would require the Postal Service to make normal and amortization payments in 2016, but CBO expects the agency will not make those payments.

<sup>d</sup> Section 104 would also reduce payments from the PSRHB for health premiums for postal annuitants enrolled in the new PSHB program. Those effects are included in Table 3 under effects from the Postal Service Health Benefits Program.

Postal Service Health Benefits program. CBO estimates that establishing the new PSHB program, requiring USPS annuitants who enroll in the PSHB program to participate in Medicare, and requiring PSHB plans to participate in Medicare Part D would, on net, increase on-budget direct spending by about \$5.3 billion over the 2015–2024 period.

The provisions of S. 1486 that require certain USPS annuitants to participate in Medicare would increase Medicare spending by about \$7.9 billion over the 2015–2024 period, CBO estimates. Under the legislation, Medicare would become the primary payer for Medicare-covered services for USPS annuitants who enroll in Medicare Part B (medical insurance). However, the PSHB plans would pay cost-sharing for those beneficiaries health care services. Additionally, Medicare Part D would make certain payments to PSHB plans because those plans would be required to participate in the Employer Group Waiver Program under Part D.

The effect of the legislation on federal on-budget payments for health insurance premiums in the FEHB program would partially offset the increase in Medicare spending. Premiums charged to non-postal enrollees in the FEHB program would be based on expected health costs of the employees, annuitants, and dependents remaining in the FEHB program after the health care costs of USPS workers, annuitants, and their dependents are shifted to the PSHB program. Because non-postal enrollees cost FEHB plans slightly less than postal enrollees, on average, CBO estimates that premiums in the FEHB program would be lower than under current law. Thus, the amount the federal government would contribute toward its share of annuitant premiums would be lower.

CBO estimates that federal payments for health insurance premiums for non-postal annuitants enrolled in the FEHB program would be reduced by about \$1.6 billion over the 2015–2024 period. (The government's share of FEHB premiums for annuitants is classified as direct spending. Federal spending for active workers participating in the FEHB program is included in the appropriations for federal agencies and, therefore, is classified as discretionary.)

In addition, CBO estimates that the bill would reduce payments from the on-budget PSRHB for USPS annuitants health insurance premiums by about \$1.0 billion over the 2015–2024 period. That is because CBO expects premiums for USPS annuitants to be lower under the legislation because of the requirement that they enroll in Medicare if they enroll in the PSHB.

Use of postal-specific data for retirement benefits. As discussed above, S. 1486 would direct OPM to use economic and demographic factors specific to Postal Service employees, rather than government-wide data, to calculate the annual employer contribution that USPS makes to federal retirement accounts under FERS and CSRS. The bill also would require the Postal Service to begin making amortization payments to liquidate any unfunded liability for retirees' CSRS benefits in 2015 rather than in 2017.

Based on information from OPM, CBO estimates that the Postal Service would make higher payments to the CSRDF in 2015 and 2016 of about \$960 million per year, but the lower payments allowed under the bill from 2017 to 2024 would result in net costs for the CSRDF of nearly \$3.5 billion over the 2015–2024 period as a whole.

**Prefunding for USPS workers' compensation obligations:** As discussed above, the bill would require the Postal Service, if certain financial conditions are met, to make a series of annual payments designed to liquidate 80 percent of the estimated liability for its workers compensation obligations over a 40-year period. We expect the agency would begin making those payments in 2019 to the Postal Service Workers' Compensation Accrued Liability Fund. CBO estimates that the new fund would receive payments from the Postal Service of \$3 billion over the 2019–2024 period.

**Effect of changes in workers compensation on agencies other than USPS:** The bill would make several changes to the Federal Employees' Compensation Act, which provides wage replacement and medical benefits to federal employees who are injured in the course of their work. The Department of Labor administers the program, and federal agencies reimburse DOL for expenses incurred on behalf of their employees.

Under current law, FECA provides compensation of up to 75 percent of a worker's pre-injury salary if that person can no longer work because of debilitating injuries sustained on the job. (Injured workers without dependents receive two-thirds of their salary as a wage-replacement benefit; those with dependents receive the higher, augmented benefit.) In addition, the worker may receive medical benefits and certain death benefits. Most of the expenses incurred on behalf of the worker are charged back to the employing agency. In 2013, both gross FECA benefits and reimbursements from agencies totaled about \$3.0 billion, resulting in net FECA outlays that year of only \$20 million.

Enacting the bill would result in a number of changes to the FECA program; most of those changes would reduce benefits, though some of the changes would increase them. The changes include:

- Reducing benefits to 50 percent of a claimant's pre-injury salary when that claimant reaches full retirement age (as defined by the Social Security Act);
- Eliminating augmented benefits for most claimants who have dependents (so that claimants below the retirement age would receive a benefit equal to two-thirds of their pre-injury salary);
- Increasing benefits under the disfigurement compensation schedule and for funeral expenses;
- Establishing a schedule for managing disability reviews, including requiring periodic medical exams;
- Improving the ability of the government to recapture compensation costs from responsible parties; and
- Enhancing cross-matching of data to identify cases where payments are being made inappropriately.

Based on information from DOL, CBO estimates that the changes in S. 1486 would reduce gross FECA outlays by \$1.2 billion over the 2015–2024 period. Those savings would be partially offset by reduced reimbursements from employing agencies of about \$1.0 billion during that period, resulting in net savings to the FECA account of \$172 million over the 2015–2024 period.

**Transfer of surplus postal retirement contributions:** S. 1486 would transfer to the Postal Service Fund any surplus in the USPS FERS account within the CSRDF as of September 30, 2013. Based

on information from OPM, CBO estimates that \$2.4 billion would be transferred from the CSRDF to the Postal Service Fund in fiscal year 2015. That transfer would increase on-budget direct spending from the CSRDF by \$2.4 billion in 2015, but is matched by off-budget savings in the Postal Service Fund (as discussed above).

Federal property asset management reform. S. 1486 would amend the Federal Property and Administrative Services Act (property act) to facilitate the disposal of federal real property. The legislation would expand the duties and responsibilities of the Federal Real Property Council, provide new authorities to the General Services Administration (GSA), and establish a five-year pilot program with the goal of expediting the disposal of surplus federal property. CBO estimates that enacting the bill would increase direct spending by \$20 million over the 2015–2024 period because the legislation would authorize GSA to spend proceeds from the sale of federal property that are expected to be collected but not spent under current law.

Based on information from GAO, the Office of Management and Budget, GSA, and other landholding agencies, CBO expects that little additional property would be sold under this program. That expected result reflects a variety of factors, including: (1) many of the largest landholding agencies would opt to continue to use their own enhanced-use authorities, (2) the new financial incentive provided to non-GSA agencies to sell real property would not be significant, and (3) since 2010, the President has directed agencies to dispose of unneeded property, reduce operating costs, and adopt more efficient real estate management practices. It is not clear how the new authorities would accelerate disposal of properties beyond what would occur under current law.

Other provisions that could affect direct spending: Several other provisions of S. 1486 could help the Postal Service in its efforts to lower its net costs; however, CBO has not estimated additional savings for those provisions because it is not clear that any savings would exceed what we expect would be achieved under current law or under other provisions of the legislation.

S. 1486 would authorize the Postal Service to ship alcoholic beverages and to establish a program to provide services for agencies of state, local, or tribal governments for a fee. Implementing these programs would require the Postal Service to compete with private businesses that currently ship alcoholic beverages and to offer cost-effective alternatives for services to states or localities. 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 that may be undertaken by the Postal Service under the bill.

The bill also would 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 would reform certain Postal Service contracting practices. Those provisions might reduce USPS costs, but CBO expects that any net savings probably would be indistinguishable from savings that would result from the Postal Service's current efforts to negotiate more favorable labor contracts and improve procurement practices.

Spending subject to appropriation: CBO estimates that S. 1486 also would affect discretionary spending, which is subject to future

appropriation actions. We estimate that implementing the bill would have net discretionary costs of about \$3.3 billion over the 10-year period, assuming the necessary amounts are appropriated.

TABLE 4—SPENDING SUBJECT TO APPROPRIATION UNDER S. 1486

	By fiscal year, outlays in millions of dollars—										
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015–2024
Use of Postal-Specific Data for Retirement Benefits:											
Estimated Authorization Level .....	483	502	524	547	571	596	622	649	677	704	5,875
Estimated Outlays .....	483	502	524	547	571	596	622	649	677	704	5,875
Postal Service Health Benefits Program:											
Estimated Authorization Level .....	0	– 38	– 177	– 229	– 242	– 256	– 272	– 289	– 308	– 327	– 2,138
Estimated Outlays .....	0	– 38	– 177	– 229	– 242	– 256	– 272	– 289	– 308	– 327	– 2,138
Effects of Changes in Workers' Compensation on Non-Postal Agencies:											
Estimated Authorization Level .....	19	19	5	– 22	– 35	– 59	– 71	– 79	– 98	– 111	– 432
Estimated Outlays .....	16	19	7	– 18	– 33	– 55	– 69	– 78	– 95	– 109	– 415
New Commission:											
Estimated Authorization Level .....	3	0	0	0	0	0	0	0	0	0	3
Estimated Outlays .....	3	0	0	0	0	0	0	0	0	0	3
Total Change:											
Estimated Authorization Level .....	505	485	352	296	294	281	279	281	271	266	3,308
Estimated Outlays .....	502	483	354	300	296	285	281	282	274	268	3,325
Memorandum: <sup>a</sup>											
Increase in Offsetting Receipts Resulting From Higher Employer Contributions .....	– 483	– 502	– 524	– 547	– 571	– 596	– 622	– 649	– 677	– 704	– 5,875

<sup>a</sup> Employer contributions are intragovernmental transactions that do not affect the deficit; negative numbers indicate an increase in such intragovernmental receipts. The receipts shown in the memorandum result from federal employer contributions financed by future appropriations; such receipts are not considered to be an offset to direct spending because they are contingent on future appropriation actions.



Use of postal-specific data for retirement benefits. Under the provisions of S. 1486 that would require the use of postal-specific economic and demographic factors to calculate the employer contribution toward retirement that USPS makes on behalf of its employees, the amount of employer contributions required from most other federal agencies also would be adjusted. OPM estimates that the use of economic and demographic factors that exclude postal workers for calculating the contributions required of other agencies would raise the contribution rate paid by other federal agencies by 0.1 percent to 0.2 percent of salary; CBO projects that such an increase in contributions would increase spending subject to appropriation by about \$5.9 billion over the 2015–2024 period. However, that cost would be offset by additional receipts to the Civil Service Retirement and Disability Trust Fund and thus would have no net effect on future deficits.

Postal service health benefits program. CBO estimates that section 104 of the bill would reduce federal outlays for health insurance premiums for non-postal employees enrolled in the FEHB program by about \$2.1 billion over the 2015–2024 period. The government's contributions for those premiums for active employees are subject to appropriation and thus classified as discretionary spending.

The estimated reduction in costs results from lower federal payments for the government's share of health insurance premiums for federal employees not employed by USPS. Currently, the federal government makes contributions to the premiums of employees that participate in the FEHB program, and in 2013 those contributions averaged 71 percent of premiums. Under the bill, as discussed above, premiums charged to non-postal employees in the FEHB program would reflect the expected health care costs of non-postal employees, non-postal annuitants, and their dependents. On a per-enrollee basis, those costs would be lower than the expected health care costs including postal beneficiaries. CBO estimates that federal spending to cover the government's share of premiums would be lower than under current law.

Effect on changes in workers' compensation on agencies other than USPS. The changes to FECA in S. 1486 would result in agencies paying \$1.0 billion less in reimbursements to DOL for expenses incurred on behalf of their employees over the 2015–2024 period. Based on historical spending patterns, CBO estimates that about \$0.4 billion of the reduction in reimbursements would be from the USPS. The balance of those payment reductions—about \$0.6 billion—would be from federal agencies discretionary salaries and expenses accounts.

Those savings would be partially offset by additional discretionary costs of about \$0.2 billion over the same period. Most of those costs would be incurred by DOL to institute and manage the disability review process and other administrative provisions required by the bill.

In addition, provisions in the bill that would extend the period of time that injured workers in zones of armed conflict would be in "continuation of pay" status would result in small increases in discretionary costs to agencies that employ such workers.

New commission. S. 1486 would authorize the appropriation of \$3 million from the Postal Service Fund for fiscal year 2015 to es-

establish a Strategic Advisory Commission on Postal Service Solvency and Innovation. The commission would offer guidance to improve USPS finances. CBO estimates that the commission would spend \$3 million in 2015, assuming appropriation of the authorized amounts.

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. Only on-budget changes to outlays or revenues are subject to pay-as-you-go procedures.

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–2019	2014–2024
<b>NET INCREASE IN THE ON-BUDGET DEFICIT</b>													
Statutory Pay-As-You-Go Impact .....	0	4,693	2,601	1,585	1,652	1,259	1,307	1,353	1,473	1,461	1,453	11,789	18,836

Intergovernmental and private sector impact: By increasing postal rates for public and private mailers, S. 1486 would impose intergovernmental and private-sector mandates, as defined in UMRA. The bill also would impose mandates on some postal annuitants by requiring them to enroll in Medicare, if eligible. CBO estimates that the aggregate annual costs to comply with the mandates in the bill would exceed both the intergovernmental and private-sector thresholds established in UMRA (\$76 million and \$152 million, respectively, in 2014, adjusted annually for inflation).

*Mandates on public and private mailers*

S. 1486 would make permanent an increase in postal rates for certain products, including those for which the Postal Service has a statutory monopoly. That increase is set to expire near the end of 2015. Because the USPS holds a statutory monopoly on first class mail, standard mail, and periodicals placed in USPS mail boxes, an increase in postal rates would constitute a mandate on public and private entities that mail those items through the USPS. The cost of the mandate would be the incremental cost of mailing those items. Based on projections from the USPS of the amount of first class mail, standard mail, and periodicals that are expected to be sent at the increased rate, CBO estimates that the additional cost to public and private entities would amount to about \$1.8 billion in the first year of the extension of the higher rates. (That figure excludes additional amounts paid for other postal services and amounts paid by the federal government for postal services.) Of the \$1.8 billion, CBO estimates that the permanent increase in postal rates would cost state and local governments approximately \$200 million in the first year, with slightly lower costs in subsequent years. Similarly, CBO estimates that the increase in postal rates would cost private mailers about \$1.6 billion in the first year, with slightly lower costs in later years.

The bill also would impose a private-sector mandate on national and state political committees by repealing their current discount on postal rates for third-class letters (standard mail). Based on information from a political committee and the USPS, CBO estimates that the cost of the mandate would average about \$4 million annually.

Mandate on postal annuitants: The bill would require all postal annuitants enrolled in Postal Service health plans to enroll in Medicare if they are eligible. Those postal annuitants would be required to pay new premiums associated with mandatory Medicare enrollment and additional amounts for health care services. However, Postal Service health plans pay a share of the cost of annuitants' health care services, and CBO estimates that the aggregate additional costs for those annuitants would be offset by those contributions.

Previous CBO estimate: On June 23, 2014, CBO transmitted a cost estimate for H.R. 2748, the Postal Reform Act of 2013, as ordered reported by the House Committee on Oversight and Government Reform on July 24, 2013. Nearly all the off-budget savings of H.R. 2748 would result from two provisions: reducing mail delivery to five days per week and phasing out delivery of mail to customers' doors. In contrast, the largest contributor to off-budget sav-

ings for S. 1486 would be the bill's provision to permanently extend a 2013 postal rate increase.

Table 5 compares CBO's estimates of the major budgetary effects of the two bills over the next 10 years, showing that both bills would have net budgetary savings of about \$17 billion over the 2015–2024 period—although the on-budget and off-budget effects for the two bills would be significantly different. S. 1486's significantly higher on-budget cost, as compared to H.R. 2748, primarily reflects the differences in the two bills' provisions related to health care benefits for USPS workers and retirees.

TABLE 5—SUMMARY OF CBO COST ESTIMATES FOR S. 1486 AND H.R. 2748

	By fiscal year, in billions of dollars—		
	Off-Budget 2015–2024	On-Budget 2015–2024	Total 2015–2024
S. 1486 .....	– 35.7	18.8	– 16.8
H.R. 2748 .....	– 23.6	6.6	– 17.0

Estimate prepared by: Federal costs: Paul Masi—Health care provisions; Amber Marcellino—Retirement; Christi Hawley Anthony—Federal employees compensation; Mark Grabowicz—All other; Impact on state, local, and tribal governments: Michael Hirsch; Impact on the private sector: Marin Burnett.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

## ADDITIONAL VIEWS OF SENATOR JON TESTER

While some of the provisions in this legislation would meaningfully improve the financial situation of the Postal Service, we oppose several sections of the bill that are outlined in the Committee report: Retiree Health Pre-Funding Payments, Postal Unions and Collective Bargaining, Mail Processing Facility Closures, and changes to the Federal Employees' Compensation Act (FECA).

### RETIREE HEALTH PRE-FUNDING PAYMENTS

While S. 1486 would improve the existing retiree health pre-funding schedule to make the requirement less onerous on the U.S. Postal Service, the legislation fails to restructure the investment of those assets. In order to maximize the returns on those payments made into the Postal Service Retiree Health Benefits Fund (PSRHBF), these investments should be made in a more progressive fashion. Currently, retiree health assets are invested in Treasury securities that produce low yields. Investing these assets into low-cost index funds that contain stocks, bonds, and cash equivalents would lead to higher returns. These higher returns would lead to greater improvement in the PSRHBF's funding status, which would ultimately result in further reduction of pre-funding costs.

Additionally, while this legislation would reduce USPS's projected pre-funding obligations from 100 percent to 80 percent over 40 years, it would still require USPS to make annual amortization and normal cost payments into the PSRHBF—whether or not the 80 percent funding target is met in a given year. If the funding level of the PSRHBF is over 80 percent, USPS should not be required to make these payments. USPS should be obligated to make these payments only when it is necessary to achieve the 80 percent funding level. By making this change, USPS would have the flexibility to invest the money that is saved in new postal vehicles, new post office facilities, and new technology.

### POSTAL UNIONS AND COLLECTIVE BARGAINING

This legislation would remove the guaranteed right of participation in the Federal Employee Retirement System (FERS) and matching Thrift Savings Plan (TSP) for newly hired postal workers. The Committee recommendation would force new employees to bargain for these long-held federal employee rights. Under the current law, postal employees' eligibility for FERS and TSP contributions is a basic employee benefit, as it is for all other federal workers. Postal employees would not only have to bargain for a benefit given to every other federal worker under this bill, but they would also have to rely on the Postal Service to use its new "flexibilities prudently," as the S. 1486 Committee report states. This legislation

could ultimately result in new employees being completely excluded from FERS/TSP eligibility as a result of these new collective bargaining provisions.

#### MAIL PROCESSING FACILITY CLOSURES

S. 1486 requires the Postal Service to maintain the service standards for First Class mail and periodicals that were in effect on October 1, 2013. A more appropriate date to use would be July 1, 2012—when new service standards first went into effect after the original wave of mail processing facility closures. The postal network was weakened significantly in the 14 months between July 2012 and October 2013, with a lower volume of mail being delivered overnight. Anecdotally, businesses and postal labor organizations have reported that, since October 2013, mail delivery regularly occurs at a far slower rate than USPS-reported data. By using the October 2013 date, the Committee accepts a service standard that is simply not as strong as the alternative option. If we are to maintain our mail processing facilities to the best of our ability, we must not slow down mail delivery even further.

#### FEDERAL EMPLOYEES' COMPENSATION ACT

The legislation makes sweeping changes to the Federal Employee Compensation Act (FECA), which affects all federal employees, yet it also succeeds in discriminatorily singling out the Postal Service. By requiring the USPS to mandate a new pre-funding initiative for projected workers' compensation liability benefits, the bill creates a burden that is placed on no other private company or government agency. Similar to the proposed retiree health pre-funding payments, these requirements would also force investment in low-yielding Treasury securities to finance future FECA benefits. A more appropriate investment mechanism would be in an appropriate mix of stock and bonds so that sufficient earnings could be created to cover future costs. Furthermore, these changes were written into S. 1486 without the Committee having held a single hearing on the topic in the last five years.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 54, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 5—GOVERNMENT ORGANIZATION AND  
EMPLOYEES

\* \* \* \* \*

PART III—EMPLOYEES

\* \* \* \* \*

Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES<sup>71</sup>

\* \* \* \* \*

Sec.

8101. Definitions.

\* \* \* \* \*

8106. Partial disability

8106a. *Reporting requirements.*

\* \* \* \* \*

[8117. Time of accrual of right.]

[8118. Election to use annual or sick leave.]

8117. *Waiting period.*

8118. *Continuation of pay.*

\* \* \* \* \*

8152. Annual report.

8153. *Integrity and compliance program.*

\* \* \* \* \*

Subchapter I—Generally

\* \* \* \* \*

§ 8101. Definitions

For the purpose of this subchapter—

(1) “employee” means—

(A) \* \* \*

\* \* \* \* \*

(D) an individual employed by the government of the District of Columbia *for an injury that occurred before the*

<sup>71</sup>These amendments to 5 U.S.C. chapter 81 are made by title V of the bill.



*effective date of section 204(e) of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93—198; 87 Stat. 783; 5 U.S.C. 8101 note); and*

\* \* \* \* \*

(18) “price index” means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; **[and]**

(19) “organ” means a part of the body that performs a special function, and for purposes of this subchapter excludes the brain, heart, and back; **[and]**

(20) “United States medical officers and hospitals” includes medical officers and hospitals of the Army, Navy, Air Forces, Department of Veterans Affairs, and United States Public Health Service, and any other medical officer or hospital designated as a United States medical officer or hospital by the Secretary of Labor; **[.]**

(21) “retirement age” *has the meaning given that term under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1));*

(22) “covered claim for total disability” *means a claim for a period of total disability that commenced before the date of enactment of the Workers Compensation Reform Act of 2014;*

(23) “covered claim for partial disability” *means a claim for a period of partial disability that commenced before the date of enactment of the Workers Compensation Reform Act of 2014; and*

(24) “individual who has an exempt disability condition” means an individual—

(A) *who—*

(i) *is eligible to receive continuous periodic compensation for total disability under section 8105 on the date of enactment of the Workers Compensation Reform Act of 2014; and*

(ii) *meets the criteria under section 8105(c);*

(B) *who, on the date of enactment of the Workers Compensation Reform Act of 2014—*

(i) *is eligible to receive continuous periodic compensation for total disability under section 8105; and*

(ii) *has sustained a currently irreversible severe mental or physical disability for which the Secretary of Labor has authorized, for at least the 1-year period ending on the date of enactment of the Workers Compensation Reform Act of 2014, constant in-home care or custodial care, such as placement in a nursing home; or*

(C) *who is eligible to receive continuous periodic compensation for total disability under section 8105—*

(i) *for not less than the 3-year period ending on the date of enactment of the Workers Compensation Reform Act of 2014; or*

(ii) *if the individual became eligible to receive continuous periodic compensation for total disability under section 8105 during the period beginning on the date that is 3 years before the date of enactment of the*

*Workers' Compensation Reform Act of 2014 and ending on such date of enactment, for not less than the 3-year period beginning on the date on which the individual became eligible.*

\* \* \* \* \*

#### **§ 8102. Compensation for disability or death of employee**

\* \* \* \* \*

(b) Disability or death from a war-risk hazard or during or as a result of capture, detention, or other restraint by a hostile force or individual, *or from an attack by a terrorist or terrorist organization, either known or unknown*, suffered by an employee who is employed outside the continental United States or in Alaska or in the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), is deemed to have resulted from personal injury sustained while in the performance of his duty, whether or not the employee was engaged in the course of employment when the disability or disability resulting in death occurred or when he was taken by the hostile force or individual. This subsection does not apply to an individual—

\* \* \* \* \*

#### **§ 8104. Vocational rehabilitation**

(a) **【The Secretary of Labor may direct a permanently disabled individual whose disability is compensable under this subchapter to undergo vocational rehabilitation.】** *IN GENERAL.*—

(1) *DIRECTION.*—*Except as provided in paragraph (2), not earlier than the date that is 6 months after the date on which an individual eligible for wage-loss compensation under section 8105 or 8106 is injured, or by such other date as the Secretary of Labor determines it would be reasonable under the circumstances for the individual to begin vocational rehabilitation, and if vocational rehabilitation may enable the individual to become capable of more gainful employment, the Secretary of Labor shall direct the individual to participate in developing a comprehensive return to work plan and to undergo vocational rehabilitation at a location a reasonable distance from the residence of the individual. The Secretary shall provide for furnishing the vocational rehabilitation services. In providing for these services, the Secretary, insofar as practicable, shall use the services or facilities of State agencies and corresponding agencies which cooperate with the 【Secretary of Health, Education, and Welfare in carrying out the purposes of chapter 4 of title 29】 the Secretary of Education in carrying out the purposes of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except to the extent that the Secretary of Labor provides for furnishing these services under section 8103 of this title. The cost of providing these services to individuals undergoing vocational rehabilitation under this section shall be paid from the Employees' Compensation Fund. However, in reimbursing a State or corresponding agency under an arrangement pursuant*

to this section the cost to the agency reimbursable in full **under section 32(b)(1) of title 29** *under section 5 of the Rehabilitation Act of 1973 (29 U.S.C. 704)* is excluded.

(2) *EXCEPTION.—The Secretary of Labor may not direct an individual who has attained retirement age to participate in developing a comprehensive return to work plan or to undergo vocational rehabilitation.*

(b) *CONTENTS OF RETURN TO WORK PLAN.—A return to work plan developed under subsection (a)—*

*(1) shall—*

*(A) set forth specific measures designed to increase the wage-earning capacity of an individual;*

*(B) take into account the prior training and education of the individual and the training, educational, and employment opportunities reasonably available to the individual; and*

*(C) provide that any employment undertaken by the individual under the return to work plan be at a location a reasonable distance from the residence of the individual;*

*(2) may provide that the Secretary will pay out of amounts in the Employees' Compensation Fund reasonable expenses of vocational rehabilitation (which may include tuition, books, training fees, supplies, equipment, and child or dependent care) during the course of the plan; and*

*(3) may not be for a period of more than 2 years, unless the Secretary finds good cause to grant an extension, which may be for not more than 2 years.*

**[(b)](c) COMPENSATION.—**Notwithstanding section 8106, individuals directed to undergo vocational rehabilitation by the Secretary shall, while undergoing such rehabilitation, receive compensation at the rate provided in sections 8105 and 8110 of this title, less the amount of any earnings received from remunerative employment **],** other than employment undertaken pursuant to such rehabilitation**].**

(d) *ASSISTED REEMPLOYMENT AGREEMENTS.—*

*(1) IN GENERAL.—The Secretary may enter into an assisted reemployment agreement with an agency or instrumentality of any branch of the Federal Government or a State or local government or a private employer that employs an individual eligible for wage-loss compensation under section 8105 or 8106 to enable the individual to return to productive employment.*

*(2) CONTENTS.—An assisted reemployment agreement under paragraph (1)—*

*(A) may provide that the Secretary will use amounts in the Employees' Compensation Fund to reimburse an employer in an amount equal to not more than 100 percent of the compensation the individual would otherwise receive under section 8105 or 8106; and*

*(B) may not be for a period of more than 3 years.*

(e) *LIST.—To facilitate the hiring of individuals eligible for wage-loss compensation under section 8105 or 8106, the Secretary shall provide a list of such individuals to the Office of Personnel Manage-*

*ment, which the Office of Personnel Management shall provide to all agencies and instrumentalities of the Federal Government.*

\* \* \* \* \*

#### **§ 8105. Total Disability**

(a) **[If] IN GENERAL.**—*Subject to subsection (b), if the disability is total, the United States shall pay the employee during the disability monthly monetary compensation equal to 66 2/3 percent of his monthly pay, which is known as his basic compensation for total disability.*

(b) **CONVERSION OF ENTITLEMENT AT RETIREMENT AGE.**—

(1) **IN GENERAL.**—*Except as provided in paragraph (2), the basic compensation for total disability for an employee who has attained retirement age shall be 50 percent of the monthly pay of the employee.*

(2) **EXCEPTIONS.**—

(A) **COVERED RECIPIENTS WHO ARE RETIREMENT AGE OR HAVE AN EXEMPT DISABILITY CONDITION.**—*Paragraph (1) shall not apply to a covered claim for total disability by an employee if the employee—*

*(i) on the date of enactment of the Workers' Compensation Reform Act of 2014, has attained retirement age; or*

*(ii) is an individual who has an exempt disability condition.*

(B) **TRANSITION PERIOD FOR CERTAIN EMPLOYEES.**—*For a covered claim for total disability by an employee who is not an employee described in subparagraph (A), the employee shall receive the basic compensation for total disability provided under subsection (a) until the later of—*

*(i) the date on which the employee attains retirement age; and*

*(ii) the date that is 3 years after the date of enactment of the Workers' Compensation Reform Act of 2014.*

**[(b)](c)** *The loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes, is prima facie permanent total disability.*

\* \* \* \* \*

#### **§ 8106. Partial Disability**

(a) **[If] IN GENERAL.**—*Subject to subsection (b), if the disability is partial, the United States shall pay the employee during the disability monthly monetary compensation equal to 66 2/3 percent of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of the partial disability, which is known as his basic compensation for partial disability.*

(b) **CONVERSION OF ENTITLEMENT AT RETIREMENT AGE.**—

(1) **IN GENERAL.**—*Except as provided in paragraph (2), the basic compensation for partial disability for an employee who has attained retirement age shall be 50 percent of the difference between the monthly pay of the employee and the monthly*

*wage-earning capacity of the employee after the beginning of the partial disability.*

**(2) EXCEPTIONS.—**

**(A) COVERED RECIPIENTS WHO ARE RETIREMENT AGE.—***Paragraph (1) shall not apply to a covered claim for partial disability by an employee if, on the date of enactment of the Workers' Compensation Reform Act of 2014, the employee has attained retirement age.*

**(B) TRANSITION PERIOD FOR CERTAIN EMPLOYEES.—***For a covered claim for partial disability by an employee who is not an employee described in subparagraph (A), the employee shall receive basic compensation for partial disability in accordance with subsection (a) until the later of—*

*(i) the date on which the employee attains retirement age; and*

*(ii) the date that is 3 years after the date of enactment of the Workers' Compensation Reform Act of 2014.*

**[(b)](c)** The Secretary of Labor may require a partially disabled employee to report his earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies. The employee shall include in the affidavit or report the value of housing, board, lodging, and other advantages which are part of his earnings in employment or self-employment and which can be estimated in money. An employee who—

\* \* \* \* \*

**[(c)](d)** A partially disabled employee who—

\* \* \* \* \*

**§ 8106a. Reporting requirements**

**(a) DEFINITION.—***In this section, the term “employee receiving compensation” means an employee who—*

*(1) is paid compensation under section 8105 or 8106; and*

*(2) has not attained retirement age.*

**(b) AUTHORITY.—***The Secretary of Labor shall require an employee receiving compensation to report the earnings of the employee receiving compensation from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.*

**(c) CONTENTS.—***An employee receiving compensation shall include in a report required under subsection (a) the value of housing, board, lodging, and other advantages which are part of the earnings of the employee receiving compensation in employment or self-employment and the value of which can be estimated.*

**(d) FAILURE TO REPORT AND FALSE REPORTS.—**

**(1) IN GENERAL.—***An employee receiving compensation who fails to make an affidavit or other report required under subsection (b) or who knowingly omits or understates any part of the earnings of the employee in such an affidavit or other report shall forfeit the right to compensation with respect to any period for which the report was required.*

**(2) FORFEITED COMPENSATION.—***Compensation forfeited under this subsection, if already paid to the employee receiving*

*compensation, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129, unless recovery is waived under that section.*

\* \* \* \* \*

#### **§ 8107. Compensation schedule**

(a) If there is permanent disability involving the loss, or loss of use, of a member or function of the body or involving disfigurement, the employee is entitled to basic compensation for the disability, as provided by the schedule in subsection (c) of this section, **[at the rate of 66 2/3 percent of his monthly pay]** *at the rate specified under subsection (d). The basic compensation is—*

(1) \* \* \*

(2) payable regardless of *whether* the disability also involves another impairment of the body; and

\* \* \* \* \*

(c) The compensation schedule is as follows:

(1) \* \* \*

\* \* \* \* \*

(21) For serious disfigurement of the face, head, or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation **[not to exceed \$3,500]** *in proportion to the severity of the disfigurement, not to exceed \$50,000* shall be awarded in addition to any other compensation payable under this schedule. *The maximum amount of compensation under this paragraph shall be increased on March 1 of each year by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.*

\* \* \* \* \*

(d) **RATE FOR COMPENSATION.—**

(1) **ANNUAL SALARY.—**

(A) **IN GENERAL.—***Except as provided in paragraph (2), the rate under subsection (a) shall be the rate of 66 2/3 percent of the annual salary level established under subparagraph (B), in a lump sum equal to the present value (as calculated under subparagraph (C)) of the amount of compensation payable under the schedule.*

(B) **ESTABLISHMENT.—**

(i) **IN GENERAL.—***The Secretary of Labor shall establish an annual salary for purposes of subparagraph (A) in the amount the Secretary determines will result in the aggregate cost of payments made under this section being equal to what would have been the aggregate cost of payments under this section if the amendments made by section 304(a) of the Workers' Compensation Reform Act of 2014 had not been enacted.*

(ii) **COST OF LIVING ADJUSTMENT.—***The annual salary established under clause (i) shall be increased on*

March 1 of each year by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.

(C) *PRESENT VALUE.*—The Secretary of Labor shall calculate the present value for purposes of subparagraph (A) using a rate of interest equal to the average market yield for outstanding marketable obligations of the United States with a maturity of 2 years on the first business day of the month in which the compensation is paid or, in the event that such marketable obligations are not being issued on such date, at an equivalent rate selected by the Secretary of Labor, true discount compounded annually.

(2) *CERTAIN INJURIES.*—For an injury that occurred before the date of enactment of the Workers' Compensation Reform Act of 2014, the rate under subsection (a) shall be 66 $\frac{2}{3}$  percent of the employee's monthly pay.

(e) *SIMULTANEOUS RECEIPT.*—

(1) *TOTAL DISABILITY.*—An employee who receives compensation for total disability under section 8105 may only receive the lump sum of schedule compensation under this section in addition to and simultaneously with the benefits for total disability after the earlier of—

(A) the date on which the basic compensation for total disability of the employee becomes 50 percent of the monthly pay of the employee under section 8105(b); or

(B) the date on which augmented compensation of the employee terminates under section 8110(b)(2)(A)(ii), if the employee receives such compensation.

(2) *PARTIAL DISABILITY.*—An employee who receives benefits for partial disability under section 8106 may only receive the lump sum of schedule compensation under this section in addition to and simultaneously with the benefits for partial disability after the earlier of—

(A) the date on which the basic compensation for partial disability of the employee becomes 50 percent of the difference between the monthly pay of the employee and the monthly wage-earning capacity of the employee after the beginning of the partial disability under section 8106(b); or

(B) the date on which augmented compensation of the employee terminates under section 8110(b)(2)(B), if the employee receives such compensation.

\* \* \* \* \*

## **§ 8110. Augmented compensation for dependents**

(a) \* \* \*

(b) *TERMINATION OF AUGMENTED COMPENSATION.*—

(1) *IN GENERAL.*—Subject to paragraph (2), augmented compensation for dependants under subsection (c) shall not be provided.

(2) *EXCEPTIONS.*—

(A) *TOTAL DISABILITY.*—For a covered claim for total disability by an employee—

(i) the employee shall receive augmented compensation under subsection (c) if the employee is an individual who has an exempt disability condition; and

(ii) the employee shall receive augmented compensation under subsection (c) until the date that is 3 years after the date of enactment of the Workers' Compensation Reform Act of 2014 if the employee is not an employee described in clause (i).

(B) *PARTIAL DISABILITY.*—For a covered claim for partial disability by an employee, the employee shall receive augmented compensation under subsection (c) until the date that is 3 years after the date of enactment of the Workers' Compensation Reform Act of 2014.

(C) *PERMANENT DISABILITY COMPENSATED BY A SCHEDULE.*—For a claim for a permanent disability described in section 8107(a) by an employee that commenced before the date of enactment of the Workers' Compensation Reform Act of 2014, the employee shall receive augmented compensation under subsection (c).

[(b)] (c) A disabled employee with one or more dependents is entitled to have his basic compensation for disability augmented—

\* \* \* \* \*

## **§ 8112. Maximum and minimum monthly payments**

(a) Except as provided by subsections (b) and (c) and section 8138 of this title, the monthly rate of compensation for disability, [including augmented compensation under section 8110 of this title but] not including additional compensation under section 8111 of this title, may not be more than [75 percent] 66<sup>2</sup>/<sub>3</sub> percent of the monthly pay of the maximum rate of basic pay for GS-15, and in case of total disability may not be less than [75 percent] 66<sup>2</sup>/<sub>3</sub> percent of the monthly pay of the minimum rate of basic pay for GS-2 or the amount of the monthly pay of the employee, whichever is less.

(b) *EXCEPTIONS.*—

(1) *COVERED DISABILITY CONDITION.*—For a covered claim for total disability by an employee, if the employee is an individual who has an exempt disability condition—

(A) the monthly rate of compensation for disability that is subject to the maximum and minimum monthly amounts under subsection (a) shall include any augmented compensation under section 8110; and

(B) subsection (a) shall be applied by substituting “75 percent” for “66<sup>2</sup>/<sub>3</sub> percent” each place it appears.

(2) *PARTIAL DISABILITY.*—For a covered claim for partial disability by an employee, until the date that is 3 years after the date of enactment of the Workers' Compensation Reform Act of 2014—

(A) the monthly rate of compensation for disability that is subject to the maximum and minimum monthly amounts



*under subsection (a) shall include any augmented compensation under section 8110; and*

*(B) subsection (a) shall be applied by substituting “75 percent” for “66<sup>2</sup>/<sub>3</sub> percent” each place it appears.*

[(b)] (c) The provisions of [subsection (a)] *subsections (a) and (b)* shall not apply to any employee whose disability is a result of an assault which occurs during an assassination or attempted assassination of a Federal official described under section 351(a) or 1751(a) of title 18, and was sustained in the performance of duty.

\* \* \* \* \*

### **§ 8113. Increase or decrease of basic compensation**

(a) \* \* \*

(b) If an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under section 8104 of this title, the Secretary, on review under section 8128 of this title and after finding that in the absence of the failure the wage-earning capacity of the individual would probably have substantially increased, [may reduce] *shall reduce* prospectively the monetary compensation of the individual in accordance with what would probably have been his wage-earning capacity in the absence of the failure, until the individual in good faith complies with the direction of the Secretary. *An individual who has attained retirement age may not be required to undergo vocational rehabilitation.*

\* \* \* \* \*

### **§ 8116. Limitations on right to receive compensation**

(a) \* \* \*

\* \* \* \* \*

(e) *RETIREMENT BENEFITS.—*

(1) *IN GENERAL.—An individual entitled to compensation benefits payable under this subchapter and under chapter 83 or 84 or any other retirement system for employees of the Government, for the same period, shall elect which benefits the individual will receive.*

(2) *ELECTION.—*

(A) *DEADLINE.—An individual shall make an election under paragraph (1) in accordance with such deadlines as the Secretary of Labor shall establish, which shall be a reasonable period after the individual has received notice of a final determination that the individual is entitled to compensation benefits payable under this subchapter.*

(B) *REVOCABILITY.—An election under paragraph (1) shall be revocable, notwithstanding any other provision of law, except for any period during which an individual—*

*(i) was qualified for benefits payable under both this subchapter and under a retirement system described in paragraph (1); and*

*(ii) was paid benefits under the retirement system after having been notified of eligibility for benefits under this subchapter.*

(3) *INFORMED CHOICE.*—*The Secretary of Labor shall provide information, and shall ensure that information is provided, to an individual described in paragraph (1) about the benefits available to the individual under this subchapter or under chapter 83 or 84 or any other retirement system referred to in paragraph (1) the individual may elect to receive.*

\* \* \* \* \*

**§ 8117. [Time of accrual of right] *Waiting period***

(a) **[An employee other than a Postal Service employee is not entitled]** *IN GENERAL.*—*An employee is not entitled to continuation of pay within the meaning of section 8118 for the first 3 days of temporary disability or, if section 8118 does not apply, is not entitled to compensation for the first 3 days of temporary disability, except—*

(1) *when the disability exceeds 14 days; or*

**[(2) when the disability is followed by permanent disability;**

**or]**

**[(3)]** *(2) as provided by sections 8103 and 8104 of this title.*

(b) **[A Postal Service employee is not entitled to compensation or continuation of pay for the first 3 days of temporary disability, except as provided under paragraph (3) of subsection (a). A Postal Service]** *USE OF LEAVE.*—*AN employee may use annual leave, sick leave, or leave without pay during [that 3-day period] the first 3 days of temporary disability, except that if the disability exceeds 14 days [or is followed by permanent disability], the employee may have their sick leave or annual leave reinstated or receive pay for the time spent on leave without pay under this section.*

\* \* \* \* \*

**§ 8118. Continuation of pay[; election to use annual or sick leave]**

(a) \* \* \*

(b) **[Continuation]** *Except as provided under subsection (d)(2), continuation of pay under this subchapter shall be furnished—*

(1) *without a break in time, except as provided under [section 8117(b)] section 8117, unless controverted under regulations of the Secretary;*

(2) \* \* \*

(3) *under accounting procedures and such other regulations as the Secretary may require.*

**[(c) An employee may use annual or sick leave to his credit at the time the disability begins, but his compensation for disability does not begin, and the time periods specified by section 8117 of this title do not begin to run, until termination of pay as set forth in subsections (a) and (b) or the use of annual or sick leave ends.]**

**[(d)]** *(c) If a claim under [subsection (a)] subsection (a) or (d) is denied by the Secretary, payments under this section shall, at the option of the employee, be charged to sick or annual leave or shall be deemed overpayments of pay within the meaning of section 5584 of title 5, United States Code.*

*(d) CONTINUATION OF PAY IN A ZONE OF ARMED CONFLICT.—*

(1) *IN GENERAL.*—Notwithstanding subsection (a), the United States shall authorize the continuation of pay of an employee described in subparagraph (A), (C), (D), or (F) of section 8101(1), who—

(A) files a claim for a period of wage loss due to an injury in performance of duty in a zone of armed conflict (as determined by the Secretary of Labor under paragraph (3)); and

(B) files the claim for such wage loss benefit with the immediate superior of the employee not later than 45 days after the later of—

(i) the termination of the assignment of the employee to the zone of armed conflict; or

(ii) the return of the employee to the United States.

(2) *CONTINUATION OF PAY.*—Notwithstanding subsection (b), continuation of pay under this subsection shall be furnished for a period not to exceed 135 days without any break in time or waiting period, unless controverted under regulations prescribed by the Secretary of Labor.

(3) *DETERMINATION OF ZONES OF ARMED CONFLICT.*—For purposes of this subsection, the Secretary of Labor, in consultation with the Secretary of State and the Secretary of Defense, shall determine whether a foreign country or other foreign geographic area outside of the United States (as defined in section 202(a)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(7)) is a zone of armed conflict based on whether—

(A) the Armed Forces of the United States are involved in hostilities in the country or area;

(B) the incidence of civil insurrection, civil war, terrorism, or wartime conditions threatens physical harm or imminent danger to the health or well-being of United States civilian employees in the country or area;

(C) the country or area has been designated a combat zone by the President under section 112(c) of the Internal Revenue Code of 1986;

(D) a contingency operation involving combat operations directly affects civilian employees in the country or area; or

(E) there exist other relevant conditions and factors.

\* \* \* \* \*

## **§ 8123. Physical examinations**

(a) \* \* \*

\* \* \* \* \*

(e) *DISABILITY MANAGEMENT REVIEW.*—

(1) *DEFINITIONS.*—In this subsection—

(A) the term “covered employee” means an employee who is in continuous receipt of compensation for total disability under section 8105 for a period of not less than 6 months; and

(B) the term “disability management review process” means the disability management review process established under paragraph (2)(A).

(2) *ESTABLISHMENT.*—*The Secretary of Labor shall—*

(A) *establish a disability management review process for the purpose of certifying and monitoring the disability status and extent of injury of each covered employee; and*

(B) *promulgate regulations for the administration of the disability management review process.*

(3) *PHYSICAL EXAMINATIONS REQUIRED.*—*Under the disability management review process, the Secretary of Labor shall periodically require covered employees to submit to physical examinations under subsection (a) by physicians selected by the Secretary. A physician conducting a physical examination of a covered employee shall submit to the Secretary a report regarding the nature and extent of the injury to and disability of the covered employee.*

(4) *FREQUENCY.*—

(A) *IN GENERAL.*—*The regulations promulgated under paragraph (2)(B) shall specify the process and criteria for determining when and how frequently a physical examination should be conducted for a covered employee.*

(B) *MINIMUM FREQUENCY.*—

(i) *INITIAL.*—*An initial physical examination shall be conducted not more than a brief period after the date on which a covered employee has been in continuous receipt of compensation for total disability under section 8015 for 6 months.*

(ii) *SUBSEQUENT EXAMINATIONS.*—*After the initial physical examination, physical examinations of a covered employee shall be conducted not less than once every 3 years.*

(5) *EMPLOYING AGENCY OR INSTRUMENTALITY REQUESTS.*—

(A) *IN GENERAL.*—*The agency or instrumentality employing an employee who has made a claim for compensation for total disability under section 8105 may at any time submit a request for the Secretary of Labor to promptly require the employee to submit to a physical examination under this subsection.*

(B) *REQUESTING OFFICER.*—*A request under subparagraph (A) shall be made on behalf of an agency or instrumentality by—*

(i) *the head of the agency or instrumentality;*

(ii) *the Chief Human Capital Officer of the agency or instrumentality; or*

(iii) *if the agency or instrumentality does not have a Chief Human Capital Officer, an officer with responsibilities similar to those of a Chief Human Capital Officer designated by the head of the agency or instrumentality to make requests under this paragraph.*

(C) *INFORMATION.*—*A request under subparagraph (A) shall be in writing and accompanied by—*

(i) *a certification by the officer making the request that the officer has reviewed the relevant material in the employee's file;*

(ii) *an explanation of why the officer has determined, based on the materials in the file and other information known to the officer, that requiring a physical ex-*

amination of the employee under this subsection is necessary; and

(iii) copies of the materials relating to the employee that are relevant to the officer's determination and request, unless the agency or instrumentality has a reasonable basis for not providing the materials.

(D) *EXAMINATION.*—If the Secretary of Labor receives a request under this paragraph before an employee has undergone an initial physical examination under paragraph (4)(B)(i), the Secretary shall promptly require the physical examination of the employee. A physical examination under this subparagraph shall satisfy the requirement under paragraph (4)(B)(i) that an initial physical examination be conducted.

(E) *AFTER INITIAL EXAMINATION.*—

(i) *IN GENERAL.*—If the Secretary of Labor receives a request under this paragraph after an employee has undergone an initial physical examination under paragraph (4)(B)(i), the Secretary shall—

(I) review the request and the information, explanation, and other materials submitted with the request; and

(II) determine whether to require the physical examination of the employee who is the subject of the request.

(ii) *NOT GRANTED.*—If the Secretary determines not to grant a request described in clause (i), the Secretary shall promptly notify the officer who made the request and provide an explanation of the reasons why the request was denied.

(f) *FIELD NURSES.*—

(1) *DEFINITION.*—In this subsection, the term “field nurse” means a registered nurse that assists the Secretary in the medical management of disability claims under this subchapter and provides claimants with assistance in coordinating medical care.

(2) *AUTHORIZATION.*—The Secretary may use field nurses to coordinate medical services and vocational rehabilitation programs for injured employees under this subchapter. If an employee refuses to cooperate with a field nurse or obstructs a field nurse in the performance of duties under this subchapter, the right to compensation under this subchapter shall be suspended until the refusal or obstruction stops.

\* \* \* \* \*

## § 8131. Subrogation of the United States

(a) If an injury or death for which *continuation of pay* or compensation is payable under this subchapter is caused under circumstances creating a legal liability on a person other than the United States to pay damages, the Secretary of Labor may require the beneficiary to—

\* \* \* \* \*

(b) A beneficiary who refuses to assign or prosecute an action in his own name when required by the Secretary is not entitled to *continuation of pay or compensation* under this subchapter.

(c) The Secretary may prosecute or compromise a cause of action assigned to the United States. When the Secretary realizes on the cause of action, he shall deduct therefrom and place to the credit of the Employees' Compensation Fund the amount of *continuation of pay or compensation* already paid to the beneficiary and the expense of realization or collection. Any surplus shall be paid to the beneficiary and credited on future payments of *continuation of pay or compensation* payable for the same injury. However, the beneficiary is entitled to not less than one-fifth of the net amount of a settlement or recovery remaining after the expenses thereof have been deducted.

\* \* \* \* \*

#### **§ 8132. Adjustment after recovery from a third person**

If an injury or death for which *continuation of pay or compensation* is payable under this subchapter is caused under circumstances creating a legal liability in a person other than the United States to pay damages, and a beneficiary entitled to *continuation of pay or compensation* from the United States for that injury or death receives money or other property in satisfaction of that liability as the result of suit or settlement [by him or in his behalf] *by the beneficiary or on behalf of the beneficiary*, the beneficiary, after deducting therefrom the costs of suit and a reasonable attorney's fee, shall refund to the United States the amount of *continuation of pay and compensation* paid by the United States and credit any surplus on future payments of [compensation payable to him] *continuation of pay or compensation payable to the beneficiary* for the same injury. No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or [his designee] *the designee of the beneficiary* the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the United States. The amount refunded to the United States shall be credited to the Employees' Compensation Fund. [If compensation has not been paid to the beneficiary, he shall credit the money or property on compensation payable to him by the United States] *If continuation of pay or compensation has not been paid to the beneficiary, the money or property shall be credited against continuation of pay or compensation payable to the beneficiary by the United States* for the same injury. However, the beneficiary is entitled to retain, as a minimum, at least one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted; and in addition to this minimum and at the time of distribution, an amount equivalent to a reasonable attorney's fee proportionate to the refund to the United States.

\* \* \* \* \*

#### **§ 8133. Compensation in case of death**

(a) If death results from an injury sustained in the performance of duty, the United States shall pay a monthly compensation equal

to a percentage of the monthly pay of the deceased employee in accordance with the following schedule:

(1) \* \* \*

(2) To the widow or widower, if there is a child, 45 percent and in addition 15 percent for each child not to exceed a total of  $66\frac{2}{3}$  percent (except as provided in subsection (g)) for the widow or widower and children.

(3) To the children, if there is no widow or widower, 40 percent for one child and 15 percent additional for each additional child not to exceed a total of **[75 percent]**  $66\frac{2}{3}$  percent (except as provided in subsection (g)), divided among the children share and share alike.

\* \* \* \* \*

If there is a widow, widower, or child, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of **[75 percent]**  $66\frac{2}{3}$  percent (except as provided in subsection (g)).

(5) To the brothers, sisters, grandparents, and grandchildren, if there is no widow, widower, child, or dependent parent as follows:

(A) \* \* \*

\* \* \* \* \*

If there is a widow, widower, or child, or dependent parent, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, children, and dependent parents, will not exceed a total of **[75 percent]**  $66\frac{2}{3}$  percent (except as provided in subsection (g)).

\* \* \* \* \*

(e) In computing compensation under this section, the monthly pay is deemed not less than the minimum rate of basic pay for GS 2. However, the total monthly compensation may not exceed—

(1) \* \* \*

(2) **[75 percent]**  $66\frac{2}{3}$  percent (except as provided in subsection (g)) of the monthly pay of the maximum rate of basic pay for GS-15.

(f) \* \* \*

(g) If the death occurred before the date of enactment of the Workers' Compensation Reform Act of 2014, subsections (a) and (e) shall be applied by substituting "75 percent" for " $66\frac{2}{3}$  percent" each place it appears.

\* \* \* \* \*

#### **§ 8134. Funeral expenses; transportation of body**

(a) If death results from an injury sustained in the performance of duty, the United States shall pay, to the personal representative of the deceased or otherwise, funeral and burial expenses not to exceed **[\$800]** \$6,000, in the discretion of the Secretary of Labor. The maximum amount of compensation under this subsection shall be increased on March 1 of each year by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index

*published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.*

(b) \* \* \*

\* \* \* \* \*

#### **§ 8139. Employees of the District of Columbia**

Compensation awarded *under this subchapter* to an employee of the government of the District of Columbia shall be paid in the manner provided by statute for the payment of the general expenses of the government of the District of Columbia.

\* \* \* \* \*

#### **§ 8141. Civil Air Patrol volunteers**

(a) \* \* \*

(b) In administering this subchapter for a member of the Civil Air Patrol covered by this section—

(1) \* \* \*

(2) the percentages applicable to payments under section 8133 of this title are—

(A) \* \* \*

(B) 20 percent for section 8133(a)(3) of this title for one child and 10 percent additional for each additional child, but not to exceed a total of **[75 percent]** *66<sup>2</sup>/<sub>3</sub> percent (except as provided in subsection (c))*, if the member died fully or currently insured under subchapter II of chapter 7 of title 42; and

\* \* \* \* \*

*(c) If the death occurred before the date of enactment of the Workers' Compensation Reform Act of 2014, subsection (b)(2)(B) shall be applied by substituting "75 percent" for "66<sup>2</sup>/<sub>3</sub> percent".*

**[(c)]** (d) The Secretary of Labor or his designee may inform the Secretary of the Air Force or his designee when a claim is filed. The Secretary of the Air Force, on request of the Secretary of Labor, shall advise him of the facts concerning the injury and whether or not the member was rendering service, or engaged in travel to or from service, in performance or support of an operational mission of the Civil Air Patrol at the time of injury. This subsection does not dispense with the report of the immediate superior of the member required by section 8120 of this title, or other reports agreed on under that section.

\* \* \* \* \*

#### **§ 8147. Employees' Compensation Fund**

(a) \* \* \*

\* \* \* \* \*

*(d) Notwithstanding subsection (b), any benefits or other payments paid to or on behalf of an employee under this subchapter or any extension or application thereof for a recurrence of injury, consequential injury, aggravation of injury, or increase in percentage of impairment to a member for which compensation is provided under the schedule under section 8107 suffered in a permanent position*



*with an agency or instrumentality of the United States while the employment with the agency or instrumentality is covered under an assisted reemployment agreement entered into under section 8104(d) shall not be included in total cost of benefits and other payments in the statement provided to the agency or instrumentality under subsection (b) if the injury was originally incurred in a position not covered by an assisted reemployment agreement.*

\* \* \* \* \*

#### **§ 8148. Forfeiture of benefits by convicted felons**

(a) Any individual convicted of a violation of section 1920 of title 18, or any other Federal or State criminal statute relating to fraud in the application for or receipt of any benefit under this subchapter or subchapter III of this chapter, shall forfeit (as of the date of such conviction) any entitlement to any benefit such individual would otherwise be entitled to under this subchapter or subchapter III (5 USCS §§ 8101 et seq. or 8191 et seq.) for any injury occurring on or before the date of such conviction. Such forfeiture shall be in addition to any action the Secretary may take under [section 8106] *section 8106a* or 8129.

\* \* \* \* \*

#### **§ 8153. Integrity and Compliance Program**

(a) *DEFINITIONS.—In this section—*

*(1) the term “FECA program” means the Federal Employees Compensation Program administered under this subchapter;*

*(2) the term “Integrity and Compliance Program” means the Integrity and Compliance Program established under subsection (b);*

*(3) the term “provider” means a provider of medical or other services under the FECA program; and*

*(4) the term “Secretary” means the Secretary of Labor.*

(b) *INTEGRITY AND COMPLIANCE PROGRAM.—Not later than 270 days after the date of enactment of this section, the Secretary shall establish an Integrity and Compliance Program for the purpose of preventing, identifying, and recovering improper payments (including improper payments obtained by fraud) for the FECA program, which shall include—*

*(1) procedures for identifying potentially improper payments (including improper payments obtained by fraud) before payment is made to claimants and providers, including, where appropriate, predictive analytics;*

*(2) reviews after payment is made to identify potentially improper payments (including improper payments obtained by fraud) to claimants and providers;*

*(3) on-going screening and verification procedures to ensure the continued eligibility of medical providers to provide services under the FECA program, including licensure, Federal disbarment, and the existence of relevant criminal convictions;*

*(4) provision of appropriate information, education, and training to claimants and providers on requirements to ensure the integrity of the FECA program, including payments under the FECA program;*

(5) *appropriate controls and audits to ensure that providers adopt internal controls and procedures for compliance with requirements under the FECA program;*

(6) *procedures to ensure—*

(A) *initial and continuing eligibility of claimants for compensation, benefits, or services under the FECA program; and*

(B) *ongoing verification of databases of information relating to claimants to ensure accuracy and completeness; and*

(7) *appropriately sharing and accessing data and information with other agencies and instrumentalities of the United States, including the United States Postal Service.*

(c) *INTERAGENCY COOPERATION ON ANTI-FRAUD EFFORTS.—*

(1) *IN GENERAL.—In administering the FECA program, including the Integrity and Compliance Program, the Secretary shall cooperate with other agencies and instrumentalities of the United States (including the United States Postal Service) and the Inspectors General of such agencies and instrumentalities to prevent, identify, and recover improper payments (including improper payments obtained by fraud) under the FECA program.*

(2) *TASK FORCE.—*

(A) *IN GENERAL.—There is established a task force, which shall be known as the FECA Integrity and Compliance Task Force (in this paragraph referred to as the “Task Force”).*

(B) *MEMBERSHIP.—The members of the Task Force shall be—*

(i) *the Secretary, who shall serve as the Chairperson of the Task Force;*

(ii) *the Postmaster General, who shall serve as the Vice Chairperson of the Task Force;*

(iii) *the Attorney General;*

(iv) *the Director of the Office of Management and Budget;*

(v) *the Inspector General of the Department of Labor;*

(vi) *the Inspector General of the United States Postal Service;*

(vii) *the Inspectors General of other appropriate agencies and instrumentalities of the United States that employ a significant number of individuals receiving compensation, benefits, or services under the FECA program, as determined by the Chairperson and Vice Chairperson of the Task Force; and*

(viii) *other appropriate Federal officials, as determined by the Chairperson and Vice Chairperson of the Task Force.*

(C) *DUTIES.—The Task Force shall—*

(i) *set forth, in writing, a description of the respective roles and responsibilities in preventing, identifying, recovering, and prosecuting fraud under, and otherwise ensuring integrity and compliance of, the FECA program of—*

(I) the Secretary (including subordinate officials such as the Director of the Office of Workers' Compensation Programs);

(II) the Inspector General of the Department of Labor;

(III) the Inspectors General of agencies and instrumentalities of the United States that employ claimants under the FECA program;

(IV) the Attorney General; and

(V) any other relevant officials;

(ii) develop procedures for sharing information of possible fraud under the FECA program or other intentional misstatements by claimants or providers under the FECA program, including procedures addressing—

(I) notification of appropriate officials of the Department of Labor of potential fraud or intentional misstatements, including provision of supporting information;

(II) timely and appropriate response by officials of the Department of Labor to notifications described in subclause (I);

(III) the inclusion of information and evidence relating to fraud and other intentional misstatements in criminal, civil, and administrative proceedings relating to the provision of compensation, benefits, or medical services (including payments to providers) under the FECA program;

(IV) the coordination of criminal investigations with the administration of the FECA program; and

(V) the protection of information relating to an investigation of possible fraud under the FECA program from potential disclosure, including requirements that enable investigative files to be appropriately separated from case management files;

(iii) not later than 1 year after the date of enactment of this section, submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform and the Committee on Education and the Workforce of the House of Representatives a report that includes the description and procedures required under clauses (i) and (ii).

(d) **IMPROVEMENTS TO ACCESS OF FEDERAL DATABASES.**—

(1) **IN GENERAL.**—The Secretary, the Postmaster General, the Inspector General of the United States Postal Service, and the Inspector General of the Department of Labor shall have access to and make use of the agency databases described in this subsection in order to improve compliance with the requirements under and the integrity of the FECA program.

(2) **SOCIAL SECURITY EARNINGS INFORMATION.**—

(A) **IN GENERAL.**—Notwithstanding section 552a or any other provision of Federal or State law, upon written request, the Commissioner of Social Security shall make

available to the Secretary, the Inspector General of the Department of Labor, the Postmaster General, and the Inspector General of the United States Postal Service the Social Security earnings information of a living or deceased employee required by the Secretary to carry out this subchapter.

(B) *PROCEDURES.*—The Secretary shall establish procedures for correlating the identity and status of recipients of compensation, benefits, or services under this subchapter with Social Security earnings information described in subparagraph (A).

(3) *OFFICE OF PERSONNEL MANAGEMENT FEDERAL RETIREE DATABASE.*—Notwithstanding section 552a or any other provision of Federal or State law, upon written request, the Director of the Office of Personnel Management shall make available to the Secretary, the Inspector General of the Department of Labor, the Postmaster General, and the Inspector General of the United States Postal Service the information in the databases of Federal employees and retirees maintained by the Director.

(4) *DEPARTMENT OF VETERANS AFFAIRS BENEFICIARIES DATABASE.*—Notwithstanding section 552a or any other provision of Federal or State law, upon written request, the Secretary of Veterans Affairs shall make available to the Secretary, the Inspector General of the Department of Labor, the Postmaster General, and the Inspector General of the United States Postal Service the information in the database of disabled individuals maintained by the Secretary of Veterans Affairs.

(5) *NATIONAL DIRECTORY OF NEW HIRES.*—Notwithstanding section 552a, section 453(j) of the Social Security Act (42 U.S.C. 653(j)), or any other provision of Federal or State law, upon written request, the Secretary of Health and Human Services shall make available to the Secretary, the Inspector General of the Department of Labor, the Postmaster General, the Inspector General of the United States Postal Service, and the Comptroller General of the United States the information in the National Directory of New Hires. The Comptroller General may obtain information from the National Directory of New Hires under this paragraph for any audit, evaluation, or investigation, including any audit, evaluation, or investigation relating to program integrity.

(6) *PROVISION.*—Information requested under this subsection shall be provided—

(A) in a timely manner;

(B) at a reasonable cost to the Secretary, the Inspector General of the Department of Labor, the Postmaster General, the Inspector General of the United States Postal Service, or the Comptroller General of the United States; and

(C) in the manner, frequency, and form reasonably specified by the officer making the request, which, upon request, shall include electronic form.

(7) *ASSESSMENT OF DATA COST-EFFECTIVENESS.*—

(A) *IN GENERAL.*—The Secretary shall consider and assess procedures for correlating the identity and status of re-

recipients of compensation, benefits, or services under this subchapter with information relating to employees, retirees, and individuals described in paragraphs (3), (4), and (5).

(B) *REPORT.*—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform and the Committee on Education and the Workforce of the House of Representatives a report on the cost-effectiveness of the use of the databases described in paragraphs (3), (4), and (5) for program compliance and integrity. The report required under this subparagraph may be included as part of the report required under subsection (f).

(8) *UNITED STATES POSTAL SERVICE FECA ENROLLEE DATABASE.*—Not later than 180 days after the date of enactment of this section, in order to track, verify, and communicate with the Secretary and other relevant entities, the Postmaster General shall establish an electronic database of information relating to employees of the United States Postal Service who have applied for or are receiving compensation, benefits, or services under this subchapter.

(e) *GENERAL PROTOCOLS AND SECURITY.*—

(1) *ESTABLISHMENT.*—

(A) *IN GENERAL.*—In order to ensure strong information security and privacy standards, the Secretary, the Postmaster General, the Inspector General of the Department of Labor, and the Inspector General of the United States Postal Service shall establish protocols for the secure transfer and storage of any information provided to an individual or entity under this section.

(B) *CONSIDERATIONS.*—In establishing protocols under subparagraph (A), the Secretary, the Postmaster General, the Inspector General of the Department of Labor, and the Inspector General of the United States Postal Service shall consider any recommendations submitted to the Secretary by the Inspector General of the Department of Health and Human Services with respect to the secure transfer and storage of information, and to comply with privacy laws and best practices.

(C) *FRAUD CASE PROTECTION.*—The Secretary, the Postmaster General, the Inspector General of the Department of Labor, and the Inspector General of the United States Postal Service shall establish protocols and procedures to enable information and materials relating to an active investigation of possible fraud relating to the FECA program to be appropriately kept separate from the files for employees relating to the provision of compensation, benefits, or services under the FECA program.

(2) *COMPLIANCE.*—The Secretary, the Postmaster General, the Inspector General of the Department of Labor, and the Inspector General of the United States Postal Service shall ensure that any information provided to an individual or entity under this

section is provided in accordance with protocols established under paragraph (1).

(f) *REPORT*.—Not later than 1 year after the date of enactment of this section, and annually thereafter for 5 years, the Secretary shall submit a report on the activities of the Secretary under this section, including implementation of the Integrity and Compliance Program, to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Oversight and Government Reform and the Committee on Education and the Workforce of the House of Representatives.

(g) *GAO REVIEW*.—The Comptroller General of the United States shall—

(1) conduct periodic reviews of the Integrity and Compliance Program; and

(2) submit reports on the results of the reviews under paragraph (1) to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform and the Committee on Education and the Workforce of the House of Representatives not later than—

(A) 2 years after the date of enactment of this section; and

(B) 3 years after submission of the report under subparagraph (A).

\* \* \* \* \*

## CHAPTER 83—RETIREMENT

\* \* \* \* \*

### Subchapter III—Civil Service Retirement

\* \* \* \* \*

#### § 8337. Disability retirement<sup>72</sup>

(a) \* \* \*

\* \* \* \* \*

(f)(1) \* \* \*

\* \* \* \* \*

(3) **[Paragraphs]** *Except as provided under chapter 81, paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this subchapter or subchapter I of chapter 81.*

\* \* \* \* \*

#### § 8348. Civil Service Retirement and Disability Fund<sup>73</sup>

\* \* \* \* \*

(h)(1) \* \* \*

\* \* \* \* \*

<sup>72</sup> This amendment to 5 U.S.C. 8337 is made by section 509(b) of the bill.

<sup>73</sup> These amendments to 5 U.S.C. 8348 are made by section 101(b)(2)(B) of the bill.

(2)(A) \* \* \*

\* \* \* \* \*

[(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2007, through the fiscal year ending September 30, 2038. If the result is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C). Beginning June 15, 2017, if the result is a supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.]

(B)(i)(I) *Not later than the date on which the Office determines the normal-cost percentage under section 101(a)(2) of the Postal Reform Act of 2014, the Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year ending on September 30, 2013, in accordance with the requirements under paragraph (4).*

(II) *If the result of the redetermination under subclause (I) is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C).*

(III) *If the result of the redetermination under subclause (I) is a supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing on September 30, 2015, which provides for the liquidation of such liability by September 30, 2054.*

(ii)(I) *The Office shall redetermine the Postal surplus or supplemental liability as of the close of each fiscal year beginning after September 30, 2013, in accordance with the requirements under paragraph (4).*

(II) *If the result of the redetermination under subclause (I) is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C).*

(III) *On and after June 15, 2015, if the result of the redetermination under subclause (I) is a supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2054.*

\* \* \* \* \*

(3) \* \* \*

\* \* \* \* \*

(4)(A) *For the purpose of carrying out paragraphs (1) and (2), the Office shall, consistent with section 8423(a)(5)(B), use—*

(i) *demographic factors specific to current and former employees of the United States Postal Service; and*

(ii) *appropriate economic assumptions, as determined by the Office, regarding wage and salary trends specific to the employees.*

*(B) The United States Postal Service shall provide any data or projections the Office requires in order to carry out paragraphs (1) and (2) consistent with subparagraph (A) of this paragraph.*

\* \* \* \* \*

## CHAPTER 84—FEDERAL EMPLOYEES RETIREMENT SYSTEM

\* \* \* \* \*

Sec.

8401. Definitions

\* \* \* \* \*

8425. Mandatory separation.

8426. *Postal Service retirement*

\* \* \* \* \*

### Subchapter II—Basic Annuity

\* \* \* \* \*

#### § 8423. Government contributions<sup>74</sup>

(a)(1) Each employing agency *other than the United States Postal Service* having any employees or Members subject to section 8422(a) shall contribute to the Fund an amount equal to the sum of—

\* \* \* \* \*

(5)(A) *The United States Postal Service shall contribute to the Fund an amount equal to the product of—*

*(i) the normal-cost percentage, as determined for employees of the United States Postal Service under subparagraph (B), multiplied by*

*(ii) the aggregate amount of basic pay payable by the United States Postal Service, for the period involved, to employees of the United States Postal Service.*

(B)(i) *In determining the normal-cost percentage for employees of the United States Postal Service, the Office shall use—*

*(I) demographic factors specific to the employees; and*

*(II) appropriate economic assumptions, as determined by the Office, regarding wage and salary trends specific to the employees.*

*(ii) The United States Postal Service shall provide any data or projections the Office requires in order to determine the normal-cost percentage for employees of the United States Postal Service consistent with clause (i).*

*(iii) Notwithstanding paragraph (2), in determining the normal-cost percentage to be applied for employees of the United States Postal Service, the Office shall take into account amounts provided under section 8422 and amounts provided under section 1005(g)(3)(A)(i) of title 39.*

*(iv) The Office shall review the determination of the normal-cost percentage for employees of the United States Postal Service and make such adjustments as the Office determines are necessary—*

<sup>74</sup>These amendments to 5 U.S.C. § 8423 are made by section 101 of the bill.



(I) upon request of the United States Postal Service, but no more frequently than once each fiscal year; and

(II) at any additional times, as the Office considers appropriate.

(b)(1) \* \* \*

\* \* \* \* \*

(5)(A) In this paragraph, the term “postal funding surplus” means the amount by which the amount of supplemental liability computed under paragraph (1)(B) is less than zero.

(B) After the date on which the Office determines under paragraph (7)(C) the amount of supplemental liability computed under paragraph (1)(B) as of the close of the fiscal year ending on September 30, 2013, not later than the date on which the Postmaster General makes a request under subparagraph (C) of this paragraph, and if the amount determined under paragraph (7)(C) is less than zero, the Postmaster General may request that some or all of the amount of the postal funding surplus, not to exceed \$6,000,000,000, be returned to the United States Postal Service, and not later than 10 days after the request, the Director shall transfer to the United States Postal Service from the Fund an amount equal to the portion of the postal funding surplus requested, for use in accordance with subparagraph (E)(i).

(C)(i) Subject to clause (ii), after the date on which the Office computes the amount of supplemental liability under paragraph (1)(B) as of the close of the fiscal year ending on September 30, 2014, and if such amount is less than zero, the Postmaster General may request that some of the amount of the postal funding surplus, not to exceed  $\frac{2}{3}$  of the amount, be returned to the United States Postal Service, and not later than 10 days after the request, the Director shall transfer to the United States Postal Service from the Fund an amount equal to the portion of the postal funding surplus requested, for use in accordance with subparagraph (E)(ii).

(ii) If any amount requested by the Postmaster General under subparagraph (B) is not transferred from the Fund as of the close of the fiscal year ending on September 30, 2014, for purposes of this subparagraph, the Office shall recompute the amount of supplemental liability computed under paragraph (1)(B) as of the close of that fiscal year by subtracting from the balance of the Fund the amount requested under subparagraph (B) of this paragraph.

(D) If the amount of supplemental liability computed under paragraph (1)(B) as of the close of any fiscal year commencing after September 30, 2014, is less than zero, the Office shall establish an amortization schedule, including a series of equal annual installments that—

(i) provide for the liquidation of the postal funding surplus in 40 years, commencing on September 30 of the subsequent fiscal year; and

(ii) shall be transferred to the United States Postal Service from the Fund for use in accordance with subparagraph (E)(ii).

(E)(i) The United States Postal Service may use an amount transferred under subparagraph (B) only for the purpose of repaying any obligation issued under section 2005(a) of title 39.

(ii) The United States Postal Service may use an amount transferred under subparagraph (C) or (D) only—

(I) by directing that some or all of the amount be transferred to the Postal Service Retiree Health Benefits Fund for the purpose of reducing any Postal Service actuarial liability referred to under section 8909a;

(II) by directing that some or all of the amount be transferred to the Civil Service Retirement and Disability Fund for the purpose of reducing any supplemental liability under section 8348(h);

(III) by directing that some or all of the amount be transferred to the Civil Service Retirement and Disability Fund for the purpose of reducing any supplemental liability under section 8423(b)(1)(B);

(IV) by directing that some or all of the amount be transferred to the Postal Service Workers Compensation Accrued Liability Fund for the purpose of reducing any Postal Service actuarial liability under section 2012 of title 39; or

(V) as described in clause (i), if none of the liabilities referred to in subclause (I), (II), (III), or (IV) remain unpaid.

[(5)](6) **[For the purpose]** Subject to paragraph (7), for the purpose of carrying out paragraph (1) with respect to any fiscal year, the Office may—

\* \* \* \* \*

(7)(A) For the purpose of carrying out paragraph (1)(B) with respect to the fiscal year ending September 30, 2013, and each fiscal year thereafter, the Office shall, consistent with subsection (a)(5)(B), use—

(i) demographic factors specific to current and former employees of the United States Postal Service; and

(ii) appropriate economic assumptions, as determined by the Office, regarding wage and salary trends specific to current employees of the United States Postal Service.

(B) The United States Postal Service shall provide any data or projections the Office requires in order to carry out paragraph (1)(B) consistent with subparagraph (A) of this paragraph.

(C) Not later than 180 days after the later of the date on which the Office receives the appropriate data or projections from the United States Postal Service under subparagraph (B) or the date of enactment of the Postal Reform Act of 2014, the Office shall determine or redetermine whether there is a postal funding surplus (as defined in paragraph (5)) or a supplemental liability described in paragraph (1)(B) (and the amount thereof) as of the close of the fiscal year ending on September 30, 2013, in accordance with the requirements under subparagraph (A) of this paragraph.

\* \* \* \* \*

#### **§ 8426. Postal Service retirement**<sup>75</sup>

(1) The application of sections 8422 and 8423 of this title and subchapters III and VII of this chapter with respect to an officer or employee of the Postal Service may be modified as provided under section 1005(g) of title 39.

<sup>75</sup>This new 5 U.S.C. § 8426 is added by section 102 of the bill.

### Subchapter III—Thrift Savings Plan

\* \* \* \* \*

#### § 8432. Contributions <sup>76</sup>

(a) \* \* \*

\* \* \* \* \*

(b)(1) \* \* \*

\* \* \* \* \*

(2)(A) \* \* \*

\* \* \* \* \*

(D)(i) Except as provided in [clause (ii)] *clauses (ii) and (iii)*, for purposes of this paragraph, the term “eligible individual” means any individual who, after any regulations under subparagraph (A) first take effect, is appointed, transferred, or reappointed to a position in which that individual becomes eligible to contribute to the Thrift Savings Fund.

(ii) Members of the uniformed services shall not be eligible individuals for purposes of this paragraph.

(iii) *An individual for whom a collective bargaining agreement authorized under section 1005(g)(4) of title 39 establishes whether the Postal Service shall make contributions to the Thrift Savings Fund for the benefit of the individual and the amount of the contributions shall not be an eligible individual for purposes of this paragraph.*

\* \* \* \* \*

### Subchapter VI —General and Administration Provisions

\* \* \* \* \*

#### § 8464a. Relationship between annuity and workers compensation <sup>77</sup>

(a)(1) \* \* \*

\* \* \* \* \*

(3) [Paragraphs] *Except as provided under chapter 81, paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this chapter or subchapter I of chapter 81.*

\* \* \* \* \*

## CHAPTER 89—HEALTH INSURANCE

Sec.

8901. *Definitions*

\* \* \* \* \*

8903b. Authority to readmit an employee organization plan.

8903c. *Postal Service Health Benefits Program.*

\* \* \* \* \*

<sup>76</sup> This amendment to 5 U.S.C. § 8432 is made by section 102 of the bill.

<sup>77</sup> This amendment to 5 U.S.C. § 8464a is made by section 509(b) of the bill.

### § 8903. Health Benefits Plans<sup>78</sup>

The Office of Personnel Management may contract for or approve the following health benefits plans:

(1) **SERVICE BENEFIT PLAN.**—One Government-wide plan, which may be underwritten by participating affiliates licensed in any number of States, offering ~~two levels of benefits~~ *2 levels of benefits for enrollees under this chapter generally and 2 levels of benefits for enrollees under the Postal Service Health Benefits Program established under section 8903c*, under which payment is made by a carrier under contracts with physicians, hospitals, or other providers of health services for benefits of the types described by section 8904(1) of this title given to employees, annuitants, members of their families, former spouses, or persons having continued coverage under section 8905a of this title, or, under certain conditions, payment is made by a carrier to the employee, annuitant, family member, former spouse, or person having continued coverage under section 8905a of this title.

\* \* \* \* \*

### § 8903c. Postal Service Health Benefits Program<sup>79</sup>

(a) **DEFINITIONS.**—*In this section—*

(1) the term “initial participating carrier” means a carrier that enters into a contract with the Office to participate in the Postal Service Health Benefits Program during the contract year beginning in January 2016;

(2) the term “Medicare eligible individual” means an individual who—

(A) is entitled to Medicare part A, but excluding an individual who is eligible to enroll under such part under section 1818 of the Social Security Act (42 U.S.C. 1395i–2); and

(B) is eligible to enroll in Medicare part B;

(3) the term “Medicare part A” means the Medicare program for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(4) the term “Medicare part B” means the Medicare program for supplementary medical insurance benefits under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.);

(5) the term “Medicare part D” means the Medicare insurance program established under part D of title XVIII of the Social Security Act (42 U.S.C. 1395w–101 et seq.);

(6) the term “Office” means the Office of Personnel Management;

(7) the term “Postal Service” means the United States Postal Service;

(8) the term “Postal Service annuitant” means an annuitant enrolled in a health benefits plan under this chapter whose Government contribution is paid by the Postal Service or the Postal Service Retiree Health Benefits Fund under section 8906(g)(2);

<sup>78</sup> This amendment to 5 U.S.C. § 8903 is made by section 104(a)(2)(A) of the bill.

<sup>79</sup> This new section 5 U.S.C. § 8903c is added by section 104(a)(1) of the bill.

(9) the term “Postal Service employee” means an employee of the Postal Service enrolled in a health benefits plan under this chapter;

(10) the term “Postal Service Health Benefits Program” means the program of health benefits plans established under subsection (c);

(11) the term “Postal Service Medicare eligible annuitant” means an individual who—

(A) is a Postal Service annuitant; and

(B) is a Medicare eligible individual;

(12) the term “PSHBP plan” means a health benefits plan offered under the Postal Service Health Benefits Program; and

(13) the term “qualified carrier” means a carrier for which the total enrollment in the plans provided under this chapter includes, in the contract year beginning in January 2015, 5,000 or more enrollees who are—

(A) Postal Service employees; or

(B) Postal Service annuitants.

(b) APPLICATION OF SECTION.—The requirements under this section shall—

(1) apply to the contract year beginning in January 2016, and each contract year thereafter; and

(2) supersede other provisions of this chapter to the extent of any specific inconsistency, as determined by the Office.

(c) ESTABLISHMENT OF THE POSTAL SERVICE HEALTH BENEFITS PROGRAM.—

(1) IN GENERAL.—The Office shall establish the Postal Service Health Benefits Program, which shall—

(A) consist of health benefit plans offered under this chapter;

(B) include plans offered by—

(i) each qualified carrier; and

(ii) any other carrier determined appropriate by the Office;

(C) be available for participation by all Postal Service employees, in accordance with subsection (d);

(D) be available for participation by all Postal Service annuitants, in accordance with subsection (d);

(E) not be available for participation by an individual who is not a Postal Service employee or Postal Service annuitant (except as a family member of such an employee or annuitant); and

(F) be implemented and administered by the Office.

(2) SEPARATE POSTAL SERVICE RISK POOL.—The Office shall ensure that each PSHBP plan includes rates, one for enrollment as an individual, one for enrollment for self plus one, and one for enrollment for self and family within each option in the PSHBP plan, that reasonably and equitably reflect the cost of benefits provided to a risk pool consisting solely of Postal Service employees and Postal Service annuitants (and family members of such employees and annuitants), taking into specific account the reduction in benefits cost for the PSHBP plan due to the Medicare enrollment requirements under subsection (e) and any savings or subsidies resulting from subsection (f).

(3) *ACTUARIALLY EQUIVALENT COVERAGE.*—*The Office shall ensure that each carrier participating in the Postal Service Health Benefits Program provides coverage under the PSHBP plans offered by the carrier that is actuarially equivalent, as determined by the Director of the Office, to the coverage that the carrier provides under the health benefits plans offered by the carrier under the Federal Employee Health Benefits Program that are not PSHBP plans.*

(d) *ELECTION OF COVERAGE.*—

(1) *IN GENERAL.*—*Except as provided in paragraphs (2) and (3), each Postal Service employee and Postal Service annuitant who elects to receive health benefits coverage under this chapter—*

*(A) shall be subject to the requirements under this section; and*

*(B) may only enroll in a PSHBP plan.*

(2) *ANNUITANTS.*—*A Postal Service annuitant shall not be subject to this section if the Postal Service annuitant—*

*(A) is enrolled in a health benefits plan under this chapter for the contract year beginning in January 2015 that is not a health benefits plan offered by an initial participating carrier, unless the Postal Service annuitant voluntarily enrolls in a PSHBP plan; or*

*(B) resides in a geographic area for which there is not a PSHBP plan in which the Postal Service annuitant may enroll.*

(3) *EMPLOYEES.*—*A Postal Service employee who is enrolled in a health benefits plan under this chapter for the contract year beginning in January 2015 that is not a health benefits plan offered by an initial participating carrier shall not be subject to the requirements under this section, except that—*

*(A) if the Postal Service employee changes enrollment to a different health benefits plan under this chapter after the start of the contract year beginning in January 2016, the Postal Service employee may only enroll in a PSHBP plan; and*

*(B) upon becoming a Postal Service annuitant, if the Postal Service employee elects to continue coverage under this chapter, the Postal Service employee shall enroll in a PSHBP plan during the open season that is—*

*(i) being held when the Postal Service employee becomes a Postal Service annuitant; or*

*(ii) if the date on which the Postal Service employee becomes a Postal Service annuitant falls outside of an open season, the first open season following that date.*

(e) *REQUIREMENT OF MEDICARE ENROLLMENT.*—

(1) *POSTAL SERVICE MEDICARE ELIGIBLE ANNUITANTS.*—*A Postal Service Medicare eligible annuitant subject to this section may not continue coverage under the Postal Service Health Benefits Program unless the Postal Service Medicare eligible annuitant enrolls in Medicare part A, Medicare part B, and Medicare part D (as part of a prescription drug plan described in subsection (f)).*

(2) *MEDICARE ELIGIBLE FAMILY MEMBERS.*—If a family member of a Postal Service annuitant who is subject to this section is a Medicare eligible individual, the family member may not be covered under the Postal Service Health Benefits Program as a family member of the Postal Service annuitant unless the family member enrolls in Medicare part A, Medicare part B, and Medicare part D (as part of a prescription drug plan described in subsection (f)).

(f) *MEDICARE PART D PRESCRIPTION DRUG BENEFITS.*—The Office shall require each PSHBP plan to provide prescription drug benefits for Postal Service annuitants and family members who are eligible for Medicare part D through a prescription drug plan offered under a waiver under section 1860D—22 of the Social Security Act (42 U.S.C. 1395w—132).

(g) *POSTAL SERVICE CONTRIBUTION.*—

(1) *IN GENERAL.*—Subject to subsection (i), for purposes of applying section 8906(b) to the Postal Service, the weighted average shall be calculated in accordance with paragraph (2).

(2) *WEIGHTED AVERAGE CALCULATION.*—Not later than October 1 of each year, the Office shall determine the weighted average of the rates established pursuant to subsection (c)(2) for PSHBP plans that will be in effect during the following contract year with respect to—

(A) enrollments for self only;

(B) enrollments for self plus one; and

(C) enrollments for self and family.

(h) *RESERVES.*—

(1) *SEPARATE RESERVES.*—

(A) *IN GENERAL.*—The Office shall ensure that each PSHBP plan maintains separate reserves (including a separate contingency reserve) with respect to the enrollees in the PSHBP plan in accordance with section 8909.

(B) *REFERENCES.*—For purposes of the Postal Service Health Benefits Program, each reference to “the Government” in section 8909 shall be deemed to be a reference to the Postal Service.

(C) *AMOUNTS TO BE CREDITED.*—The reserves (including the separate contingency reserve) maintained by each PSHBP plan shall be credited with a proportionate amount of the funds in the existing reserves for health benefits plans offered by an initial participating carrier.

(2) *DISCONTINUATION OF PSHBP PLAN.*—In applying section 8909(e) relating to a PSHBP plan that is discontinued, the Office shall credit the separate Postal Service contingency reserve maintained under paragraph (1) for that plan only to the separate Postal Service contingency reserves of the PSHBP plans continuing under this chapter.

(i) *NO EFFECT ON EXISTING LAW.*—Nothing in this section shall be construed as affecting section 1005(f) of title 39 regarding variations, additions, or substitutions to the provisions of this chapter.

\* \* \* \* \*

**§ 8906. Contribution**<sup>80</sup>

(a) \* \* \*

\* \* \* \* \*

(g)(1) \* \* \*

(2)(A) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after July 1, 1971, or for a survivor of such an individual or of an individual who died on or after July 1, 1971 while employed by the United States Postal Service, shall [through September 30, 2016, be paid by the United States Postal Service, and thereafter shall] after the date of enactment of the Postal Reform Act of 2014 be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.

\* \* \* \* \*

**§ 8909a. Postal Service Retiree Health [Benefit] *Benefits Fund***<sup>81</sup>

(a) \* \* \*

\* \* \* \* \*

(d)(1) \* \* \*

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

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

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

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

[(B) Not later than June 30, 2017, the Office shall compute, and by June 30 of each succeeding year shall recompute, a schedule including a series of annual installments which provide for the liquidation of any liability or surplus by September 30, 2056, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.]

*(2)(A) Not later than June 30, 2016, the Office shall compute, and by June 30 of each succeeding year, the Office shall recompute, a schedule including a series of annual installments which provide for the liquidation of the amount described under subparagraph (B) (regardless of whether the amount is a liability or surplus) by September 30, 2052, or within 15 years, whichever is later, including interest at the rate used in the computations under this subsection.*

<sup>80</sup> This amendment to 5 U.S.C. § 8906 is made by section 103(a) of the bill.

<sup>81</sup> These amendments to 5 U.S.C. § 8909a are made by section 103(b) and (d) of the bill. <sup>82</sup> These amendments to the Inspector General Act of 1978 are made by section 406 of the bill.



(B) *The amount described in this subparagraph is the amount, as of the date on which the applicable computation or recomputation under subparagraph (A) is made, that is equal to the difference between—*

(i) *80 percent of the Postal Service actuarial liability as of September 30 of the most recently ended fiscal year; and*

(ii) *the value of the assets of the Postal Retiree Health Benefits Fund as of September 30 of the most recently ended fiscal year.*

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

(i) \* \* \*

\* \* \* \* \*

(iii) \$1,400,000,000, not later than September 30, 2009; and

(iv) \$5,500,000,000, not later than September 30, 2010[;].

[(v) \$5,500,000,000, not later than October 4, 2011;

[(vi) \$5,600,000,000, not later than September 30, 2012;

[(vii) \$5,600,000,000, not later than September 30, 2013;

[(viii) \$5,700,000,000, not later than September 30, 2014;

[(ix) \$5,700,000,000, not later than September 30, 2015; and

[(x) \$5,800,000,000, not later than September 30, 2016.

(B) Not later than September 30, [2017] 2016, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund the sum of—

(i) the net present value computed under paragraph (1); and

(ii) any annual installment computed under [paragraph

(2)(B).] paragraph (2).

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

(4) *Computations under this subsection shall be based on—*

(A) *economic and actuarial methods and assumptions consistent with the methods and assumptions used in determining the Postal surplus or supplemental liability under section 8348(h); and*

(B) *any other methods and assumptions, including a health care cost trend rate, that the Director of the Office determines to be appropriate.*

\* \* \* \* \*

(7) *In this subsection, the term “Postal Service actuarial liability” means the difference between—*

(A) *the net present value of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants; and*

(B) *the net present value as computed under paragraph (1) attributable to the future service of United States Postal Service employees.*

(e) *Subsections (a) through (d) shall be subject to section 104 of the Postal Reform Act of 2014.*

\* \* \* \* \*

INSPECTOR GENERAL ACT OF 1978<sup>82</sup>

(5 U.S.C. App.)

\* \* \* \* \*

**§ 8G. Requirements for Federal entities and designated Federal entities**

(a) Notwithstanding section 12 of this Act, as used in this section—

(1) \* \* \*

\* \* \* \* \*

(2) the term “designated Federal entity” means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Defense Intelligence Agency, the Denali Commission, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Election Commission, the Election Assistance Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Geospatial-Intelligence Agency, the National Labor Relations Board, the National Reconnaissance Office, the National Security Agency, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the United States International Trade Commission, [the Postal Regulatory Commission, and the United States Postal Service] *and the Postal Regulatory Commission*;

(3) the term “head of the Federal entity” means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to [subsection (h)(1)] *subsection (g)(1)* of this section;

(4) the term “head of the designated Federal entity” means the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission, any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to [subsection (h)(1)] *subsection (g)(1)* of this section, except that—

<sup>82</sup>These amendments to the Inspector General Act of 1978 are made by section 406 of the bill.

(A) \* \* \*

[(B) with respect to the United States Postal Service, such term means the Governors (within the meaning of section 102(3) of title 39, United States Code);]

[(C)](B) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code);

[(D)](C) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

[(E)](D) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a);

[(F)](E) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

[(G)](F) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; and

[(H)](G) with respect to the Peace Corps, such term means the Director of the Peace Corps;

\* \* \* \* \*

(c) [Except as provided under subsection (f) of this section, the] *The* Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity. Each Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. For purposes of implementing this section, the Chairman of the Board of Governors of the Federal Reserve System shall appoint the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection. The Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection shall have all of the authorities and responsibilities provided by this Act with respect to the Bureau of Consumer Financial Protection, as if the Bureau were part of the Board of Governors of the Federal Reserve System.

\* \* \* \* \*

[(f)(1) For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of section 202(e) of title 39, United States Code, shall be applied.

[(2) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service (hereinafter in this subsection referred to as the Inspector General") shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

[(3)(A)(i) Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

[(I) ongoing civil or criminal investigations or proceedings;

[(II) undercover operations;

[(III) the identity of confidential sources, including protected witnesses;

[(IV) intelligence or counterintelligence matters; or

[(V) other matters the disclosure of which would constitute a serious threat to national security.

[(ii) With respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States.

[(iii) If the Governors exercise any power under clause (i) or (ii), the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

[(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General—

[(i) may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and

[(ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation.

[(C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

[(4) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

[(5) As used in this subsection, the term “Governors” has the meaning given such term by section 102(3) of title 39, United States Code.

[(6) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.]

[g](f)(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting—

\* \* \* \* \*

[h](g)(1) No later than April 30, 1989, and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in the Federal Register a list of the Federal entities and designated Federal entities and if the designated Federal entity is not a board or commission, include the head of each such entity (as defined under subsection (a) of this section).

\* \* \* \* \*

#### **§ 8N. Special Provisions Concerning The Inspector General of the United States Postal Service**

(a) *In this section—*

(1) *the term “Governors” has the meaning given that term in section 102(3) of title 39, United States Code; and*

(2) *the term “Inspector General” means the Inspector General of the United States Postal Service.*

(b) *In carrying out the duties and responsibilities specified in this Act, the Inspector General shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to the Inspector General.*

(c)(1)(A) *The Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—*

(i) *ongoing civil or criminal investigations or proceedings;*

(ii) *undercover operations;*

(iii) *the identity of confidential sources, including protected witnesses;*

(iv) *intelligence or counterintelligence matters; or (v) other matters the disclosure of which would constitute a serious threat to national security.*

(B) *With respect to the information described under subparagraph (A), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under subparagraph (A) or to prevent the significant impairment to the national interests of the United States.*

(C) If the Governors exercise any power under subparagraph (A) or (B), the Governors shall notify the Inspector General in writing of the reasons for the exercise of such power. Not later than 30 days after receipt of any such notice, the Inspector General shall transmit a copy of the notice to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(2) In carrying out the duties and responsibilities specified in this Act, the Inspector General—

(A) may initiate, conduct, and supervise such audits and investigations of the United States Postal Service as the Inspector General considers appropriate; and

(B) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and ensuring effective coordination and cooperation.

(3) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that section, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

(d) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act (29 U.S.C. 151 et seq.), any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

(e) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.”;

\* \* \* \* \*

## § 12. Definitions

As used in this Act—

(1) the term “head of the establishment” means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, Homeland Security, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans’ Affairs; the Administrator of the Federal Emergency Management Agency, or the Office of Personnel Management; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; the chief executive officer of the Resolution Trust Corporation; the Chair-

person of the Federal Deposit Insurance Corporation; the Commissioner of Social Security, Social Security Administration; the Director of the Federal Housing Finance Agency; the Board of Directors of the Tennessee Valley Authority; the President of the Export-Import Bank; [or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code] *the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; or the Board of Governors of the United States Postal Service; as the case may be;*

(2) the term “establishment” means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, Homeland Security, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the Corporation for National and Community Service, the Veterans’ Administration, the Social Security Administration, the Federal Housing Finance Agency, the Tennessee Valley Authority, the Export-Import Bank, [or the Commissions established under section 15301 of title 40, United States Code] *the Commissions established under section 15301 of title 40, United States Code, or the United States Postal Service, as the case may be;*

\* \* \* \* \*

## TITLE 18—CRIMES AND CRIMINAL PROCEDURE<sup>83</sup>

\* \* \* \* \*

### PART I—CRIMES

\* \* \* \* \*

### CHAPTER 53—INDIANS

\* \* \* \* \*

#### § 1161. Application of Indian liquor laws

The provisions of sections 1154, 1156, 3113, 3488, and 3669, of this title, shall not apply within any area that is not Indian country, nor to any act or transaction within any area of Indian country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over

<sup>83</sup>These amendments to title 18, United States Code, are made by section 303(a) of the bill.

such area of Indian country, certified by the Secretary of the Interior, and published in the Federal Register, *and, with respect to the mailing of distilled spirits, wine, or malt beverages (as those terms are defined in section 117 of the Federal Alcohol Administration Act (27 U.S.C. 211)), is in conformity with section 3001(p) of title 39.*

\* \* \* \* \*

## CHAPTER 83—POSTAL SERVICE

\* \* \* \* \*

### § 1716. Injurious articles as nonmailable

(a) \* \* \*

\* \* \* \* \*

(f) All spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind are nonmailable and shall not be deposited in or carried through the [mails] *mails, except to the extent that the mailing is allowable under section 3001(p) of title 39.*

\* \* \* \* \*

## TITLE 31—MONEY AND FINANCE

\* \* \* \* \*

### Subtitle II—The Budget Process

\* \* \* \* \*

## CHAPTER 15—APPROPRIATION ACCOUNTING

\* \* \* \* \*

Sec.

1501. Documentary evidence requirement for Government obligations.

\* \* \* \* \*

1537. Services between the United States Government and the District of Columbia government.

1538. *Authorization for assisted reemployment.*

\* \* \* \* \*

### Subchapter III—Transfers and Reimbursements

\* \* \* \* \*

### § 1538. *Authorization for assisted reemployment*<sup>84</sup>

*Funds may be transferred from the Employees' Compensation Fund established under section 8147 of title 5 to the applicable appropriations account for an agency or instrumentality of any branch of the Federal Government for the purposes of reimbursing the agency or instrumentality in accordance with an assisted reemployment agreement entered into under section 8104 of title 5.*

\* \* \* \* \*

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<sup>84</sup>This new section 31 U.S.C. § 1538 is added by section 505(e) of the bill.



## TITLE 39—POSTAL SERVICE

\* \* \* \* \*

### PART I—GENERAL

\* \* \* \* \*

#### CHAPTER 1—POSTAL POLICY AND DEFINITIONS

\* \* \* \* \*

#### § 102. Definitions <sup>85</sup>

As used in this title—

(1) \* \* \*

\* \* \* \* \*

(3) “Governors” means the [9] 8 members of the Board of Governors appointed by the President, by and with the advice and consent of the Senate, under section [202(a)] *202(b)(1)(C)* of this title.

(4) “Inspector General” means the Inspector General appointed under [section 202(e) of this title] *section 3 of the Inspector General Act of 1978 (5 U.S.C. App.)*;

\* \* \* \* \*

#### CHAPTER 2—ORGANIZATION

Sec.

201. United States Postal Service

\* \* \* \* \*

208. Reservation of powers.

209. *Chief Innovation Officer*

\* \* \* \* \*

#### [§ 202. Board of Governors <sup>86</sup>

[(a)(1) The exercise of the power of the Postal Service shall be directed by a Board of Governors composed of 11 members appointed in accordance with this section. Nine of the members, to be known as Governors, shall be appointed by the President, by and with the advice and consent of the Senate, not more than 5 of whom may be adherents of the same political party. The Governors shall elect a Chairman from among the members of the Board. The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their experience in the field of public service, law or accounting or on their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; except that at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) that employ at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause. Each Gov-

<sup>85</sup>In 39 U.S.C. § 102, the amendment to paragraph (3) is made by section 401(d) of the bill, and the amendment to paragraph (4) is made by section 406(b)(1) of the bill.

<sup>86</sup>This amendment to 39 U.S.C. § 202 is made by section 401(a) of the bill.

ernor shall receive a salary of \$30,000 a year plus \$300 a day for not more than 42 days of meetings each year and shall be reimbursed for travel and reasonable expenses incurred in attending meetings of the Board. Nothing in the preceding sentence shall be construed to limit the number of days of meetings each year to 42 days.

[(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.

[(b)(1) The terms of the 9 Governors shall be 7 years, except that the terms of the 9 Governors first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 1 year, 1 at the end of 2 years, 1 at the end of 3 years, 1 at the end of 4 years, 1 at the end of 5 years, 1 at the end of 6 years, 1 at the end of 7 years, 1 at the end of 8 years, and 1 at the end of 9 years, following the appointment of the first of them. Any Governor appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term. A Governor may continue to serve after the expiration of his term until his successor has qualified, but not to exceed one year.

[(2) No person may serve more than 2 terms as a Governor.

[(c) The Governors shall appoint and shall have the power to remove the Postmaster General, who shall be a voting member of the Board. His pay and term of service shall be fixed by the Governors.

[(d) The Governors and the Postmaster General shall appoint and shall have the power to remove the Deputy Postmaster General, who shall be a voting member of the Board. His term of service shall be fixed by the Governors and the Postmaster General and his pay by the Governors.

[(e)(1) The Governors shall appoint and shall have the power to remove the Inspector General.

[(2) The Inspector General shall be appointed—

[(A) for a term of 7 years;

[(B) without regard to political affiliation; and

[(C) solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

[(3) The Inspector General may at any time be removed upon the written concurrence of at least 7 Governors, but only for cause. Nothing in this subsection shall be considered to exempt the Governors from the requirements of section 8G(e) of the Inspector General Act of 1978.]

## **§202. Board of Governors**

(a) *IN GENERAL.*—*The exercise of the power of the Postal Service shall be directed by a Board of Governors composed of 9 members appointed in accordance with this section, each of whom shall be a voting member of the Board.*

(b) *MEMBERSHIP.*—

(1) *COMPOSITION.*—*The Board shall be composed of—*

(A) *the Postmaster General; and*

(B) 8 members, to be known as Governors, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) AFFILIATION.—Not more than 4 of the Governors may be members of any 1 political party.

(3) CHAIRPERSON.—The Governors shall elect a Chairperson from among the members of the Board.

(c) QUALIFICATIONS.—

(1) IN GENERAL.—The Governors shall represent the public interest generally, and shall be chosen solely on the basis of experience in public service, law, or accounting, or on a demonstrated ability to manage organizations or corporations (in either the public or private sector) of substantial size.

(2) NO SPECIFIC INTEREST.—A Governor may not be a representative of a specific interest using the Postal Service.

(3) INITIAL APPOINTMENTS.—At least 1 of the Governors who is appointed to fill a position that is vacant on the date of enactment of the Postal Reform Act of 2014 shall, in addition to the qualifications set forth in paragraph (1), be appointed based on the demonstrated ability of that individual to manage and improve financially troubled organizations.

(d) REMOVAL.—A Governor may be removed only for cause.

(e) COMPENSATION.—

(1) SALARY.—Each Governor shall receive a salary of \$30,000 each year, plus \$300 for each day, for not more than 42 days, on which the Governor attends a meeting of the Board. Nothing in this paragraph shall be construed to limit the number of days of meetings each year to 42 days.

(2) REIMBURSEMENT FOR MEETINGS.—Each Governor shall be reimbursed for travel and reasonable expenses incurred in attending meetings of the Board.

(f) TERMS.—

(1) IN GENERAL.—Each Governor shall serve for a term of 7 years.

(2) VACANCIES.—A Governor appointed to fill a vacancy occurring before the expiration of the term to which the predecessor of that Governor was appointed shall serve for the remainder of that term.

(3) CONTINUATION OF SERVICE.—A Governor may continue to serve after the expiration of the term of that Governor until a successor has been appointed, except that a Governor may not continue to serve for more than 1 year after the date on which the term of that Governor would have otherwise expired.

(4) LIMIT.—A Governor may serve for not more than 2 terms.

(g) POSTMASTER GENERAL.—

(1) APPOINTMENT AND REMOVAL.—The Governors shall appoint and shall have the power to remove the Postmaster General.

(2) PAY AND TERM OF SERVICE.—The pay and term of service of the Postmaster General shall be determined by the Governors.

(h) DEPUTY POSTMASTER GENERAL.—

(1) *APPOINTMENT AND REMOVAL.*—The Governors and the Postmaster General shall appoint and shall have the power to remove the Deputy Postmaster General.

(2) *PAY.*—The pay of the Deputy Postmaster General shall be determined by the Governors.

(3) *TERM OF SERVICE.*—The term of service of the Deputy Postmaster General shall be determined by the Governors and the Postmaster General.

(i) *EXECUTIVE COMMITTEE.*—

“(1) *AUTHORITY TO ESTABLISH.*—The Board, by a vote of a majority of its members, may establish an Executive Committee of the Board, consistent with paragraph (2).

“(2) *BOARD MEMBERSHIP AND RESPONSIBILITIES.*—If established by the Board, the Executive Committee shall—

(A) be composed of the Chairperson of the Board and 2 additional Governors designated by the Board, except that not more than 2 members of the Executive Committee may be members of any 1 political party;

(B) develop and oversee implementation of strategies and measures to ensure the long-term financial solvency of the Postal Service;

(C) develop and oversee the implementation of the financial plan and budget required under section 403 of the Postal Reform Act of 2014 and updates to the financial plan and budget;

(D) make recommendations to the Board regarding aspects of postal operations; and

(E) assume such other responsibilities as the Board determines appropriate.

(3) *QUORUM.*—2 members of the Executive Committee shall constitute a quorum for the transaction of business by the Executive Committee.

(4) *TERMINATION.*—The Executive Committee may be terminated by a vote of the majority of the members of the Board.

\* \* \* \* \*

### **§ 203. Postmaster General; Deputy Postmaster General**<sup>87</sup>

The chief executive officer of the Postal Service is the Postmaster General appointed under section [202(c)] 202(g) of this title. The alternate chief executive officer of the Postal Service is the Deputy Postmaster General appointed under section [202(d)] 202(h) of this title.

\* \* \* \* \*

### **§ 205. Procedures of the Board of Governors**<sup>88</sup>

(a) \* \* \*

\* \* \* \* \*

(c) The Board shall act upon majority vote of those members who are present, and any [6 members] 5 members present shall con-

<sup>87</sup>This amendment to 39 U.S.C. § 203 is made by section 401(d)(2) of the bill.

<sup>88</sup>This amendment to 39 U.S.C. § 205 is made by section 401(b) of the bill.

stitute a quorum for the transaction of business by the Board, except—

\* \* \* \* \*

**§ 209. Chief innovation officer**<sup>89</sup>

(a) *ESTABLISHMENT.*—*There shall be in the Postal Service a Chief Innovation Officer appointed by the Postmaster General.*

(b) *QUALIFICATIONS.*—*The Chief Innovation Officer shall have proven expertise and a record of accomplishment in areas such as—*

- (1) *the postal and shipping industry;*
- (2) *innovative product research and development;*
- (3) *brand marketing strategy;*
- (4) *new and emerging technology, including communications technology; or*
- (5) *business process management.*

(c) *DUTIES.*—*The Chief Innovation Officer shall lead the development and implementation of—*

- (1) *innovative postal products and services, particularly products and services that use new and emerging technology, including communications technology, to improve the net financial position of the Postal Service; and*
- (2) *nonpostal services authorized under section 404(a)(6) that have the potential to improve the net financial position of the Postal Service.*

(d) *DEADLINE.*—*The Postmaster General shall appoint a Chief Innovation Officer not later than 90 days after the date of enactment of the Postal Reform Act of 2014.*

\* \* \* \* \*

## CHAPTER 4—GENERAL AUTHORITY

Sec.

401. General powers of the Postal Service.

\* \* \* \* \*

416. Authority to issue semipostals.

417. *Postal Service contracts and congressional oversight authority.*

\* \* \* \* \*

**§ 404. Specific powers**<sup>90</sup>

(a) \* \* \*

(1) \* \* \*

\* \* \* \* \*

(6) *on and after the date of enactment of the Postal Reform Act of 2014, except as provided in subsection (e) and subject to subsection (h)—*

(A) *to provide other services that are not postal services, if the provision of such services—*

<sup>89</sup>This new 39 U.S.C. § 209 is added by section 404(a) of the bill.

<sup>90</sup>In 39 U.S.C. § 404, the amendments to subsection (a) are made by section 302(a)(1)(A) of the bill, the amendments to subsection (d) are made by section 203 of the bill, the amendments to subsection (e) are made by sections 302(a)(1)(B) and (c)(1) of the bill, the new subsection (f) is added by section 202(b) of the bill, the new subsections (g) and (h) are added by section 302(1)(c) of the bill, and the new subsection (i) is added by section 201(c)(2) of the bill.

(i) *uses the processing, transportation, delivery, retail network, or technology of the Postal Service;*

(ii) *is consistent with the public interest and demonstrated likely public demand for—*

(I) *the Postal Service, rather than another entity, to provide the services; or*

(II) *the Postal Service, in addition to or in partnership with another entity, to provide the services;*

(iii) *would not create unfair competition with the private sector, taking into consideration the extent to which the Postal Service will not, either by legal obligation or voluntarily, comply with any State or local laws or requirements generally applicable to the provision of such services;*

(iv) *does not unreasonably interfere with or detract from the value of postal services, including—*

(I) *the cost and efficiency of postal services; and*

(II) *access to postal retail service;*

(v) *will be undertaken in accordance with all Federal laws and regulations applicable to the provision of such services; and*

(vi) *is reasonably expected to improve the net financial position of the Postal Service, based on a market analysis conducted by or on behalf of the Postal Service; and*

(B) *to classify a service provided under subparagraph (A) as an experimental product subject to section 3641;*

[(6)](7) to investigate postal offenses and civil matters relating to the Postal Service;

[(7)](8) to offer and pay rewards for information and services in connection with violation of the postal laws, and, unless a different disposal is expressly prescribed, to pay one-half of all penalties and forfeitures imposed for violations of law affecting the Postal Service, its revenues, or property, to the person informing for the same, and to pay the other one-half into the Postal Service Fund; and

[(8)](9) to authorize the issuance of a substitute check for a lost, stolen, or destroyed check of the Postal Service.

\* \* \* \* \*

[(d)(1)] The Postal Service, prior to making a determination under subsection (a)(3) of this section as to the necessity for the closing or consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing or consolidation to persons served by such post office to ensure that such persons will have an opportunity to present their views.

[(2)] The Postal Service, in making a determination whether or not to close or consolidate a post office—

[(A)] shall consider—

[(i)] the effect of such closing or consolidation on the community served by such post office;

[(ii)] the effect of such closing or consolidation on employees of the Postal Service employed at such office;

[(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;

[(iv) the economic savings to the Postal Service resulting from such closing or consolidation; and

[(v) such other factors as the Postal Service determines are necessary; and

[(B) may not consider compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

[(3) Any determination of the Postal Service to close or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (2) of this subsection. Such determination and findings shall be made available to persons served by such post office.

[(4) The Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office.]

(d) *DISCONTINUANCE OF POST OFFICES.*—

(1) *DEFINITIONS.*—*In this subsection—*

(A) *the term “discontinuance” has the meaning given the term in section 241.3 of title 39, Code of Federal Regulations, as in effect on November 1, 2013;*

(B) *the term “local government” means—*

(i) *a county, municipality, city, town, township, local public authority, special district, intrastate district, council of government, or regional or interstate government entity;*

(ii) *an agency or instrumentality of an entity described in clause (i); or*

(iii) *a rural community, an unincorporated town or village, or an instrumentality of a rural community or an unincorporated town or village;*

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

(D) *the term “rural post office” means a post office that is—*

(i) *in a rural area, as defined by the Census Bureau; and*

(ii) *within the K or L cost ascertainment grouping, as classified by the Postal Service.*

(2) *PRELIMINARY CONSIDERATIONS.*—*The Postal Service, prior to making a determination under subsection (a)(3) of this section as to the necessity for the discontinuance of any post office, and, with respect to a determination to discontinue a rural post office, prior to making the determinations required under paragraph (5), shall—*

(A) *consider whether—*

(i) to discontinue the post office and combine it with another post office located within a reasonable distance;

(ii) instead of discontinuing the post office—

(I) to reduce the number of hours a day that the post office operates; or

(II) to continue operating the post office for the same number of hours a day;

(iii) to procure a contract providing full, or less than full, retail postal services in the community served by the post office; or

(iv) to provide postal services to the community served by the post office—

(I) through a letter carrier or by Alternate Means of Transportation delivery contract;

(II) by collocating postal services at a commercial or government entity; or

(III) by implementing an alternative proposal made by a local government under subparagraph (B)(iii);

(B) provide—

(i) relevant information on financial costs associated with the operations of the post office to postal customers and local governments served by the post office;

(ii) postal customers served by the post office an opportunity to present their views, which may be by non-binding survey conducted by mail; and

(iii) local governments served by the post office an opportunity to present alternative proposals for providing postal services to the community; and

(C) if the Postal Service determines to discontinue the post office, provide adequate public notice of its intention to discontinue the post office at least 60 days prior to the proposed date of the discontinuance to persons and local governments served by the post office.

(3) *CONSIDERATIONS.*—The Postal Service, in making a determination whether or not to discontinue a post office—

(A) shall consider—

(i) the effect of the discontinuance on the community served by the post office;

(ii) the effect of the discontinuance on businesses, including small businesses, in the area;

(iii) the effect of the discontinuance on employees of the Postal Service employed at the post office;

(iv) whether the discontinuance would have a significant adverse effect on regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

(v) the extent to which the community served by the post office lacks access to Internet, broadband, or cellular telephone service;

(vi) the extent to which postal customers served by the post office would continue after the discontinuance to receive substantially similar access to essential



items, such as prescription drugs and time-sensitive communications;

(vii) the proximity and accessibility of other post offices;

(viii) whether substantial economic savings to the Postal Service would result from the discontinuance; and

(ix) any other factors that the Postal Service determines are necessary; and

(B) may not consider compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(4) WRITTEN DETERMINATION AND FINDINGS.—

(A) IN GENERAL.—Any determination of the Postal Service to discontinue a post office shall—

(i) be in writing;

(ii) include the findings of the Postal Service with respect to the considerations required to be made under paragraph (3); and

(iii) with respect to a determination to discontinue a rural post office, include a summary of the determinations required under paragraph (5).

(B) AVAILABILITY OF FINDINGS.—The Postal Service shall make available, to persons served by a post office that the Postal Service determines to discontinue, any determination and findings under subparagraph (A) with respect to that post office.

(C) NOTICE BEFORE DISCONTINUANCE.—The Postal Service may not take any action to discontinue a post office until 60 days after the date on which the Postal Service makes available, to persons served by the post office, the written determination and findings with respect to the post office as required under subparagraph (B).

(5) RURAL POST OFFICES.—

(A) MORATORIUM ON DISCONTINUANCE OF RURAL POST OFFICES.—The Postal Service may not discontinue a rural post office during the 1-year period beginning on the date of enactment of the Postal Reform Act of 2014.

(B) REQUIREMENTS FOR DISCONTINUANCE OF RURAL POST OFFICES.—The Postal Service may not make a determination under subsection (a)(3) to discontinue a rural post office unless the Postal Service—

(i)(I) determines that postal customers served by the post office would continue after the discontinuance to receive substantially similar access to essential items, such as prescription medications and time-sensitive communications, that are sent through the mails; or

(II) takes action to substantially ameliorate any projected reduction in access to essential items described in subclause (I); and

(ii) determines that—

(I) there is unlikely to be substantial economic loss to the community served by the post office as a result of the discontinuance;

(II) the area served by the post office has adequate access to broadband Internet service, as identified on the National Broadband Map of the National Telecommunications and Information Administration; and

(III) there is a road with year-round access connecting the community to another post office that is within 10 miles from the post office proposed to be discontinued.

(C) STUDY AND REPORT.—

(i) STUDY.—The Inspector General shall conduct a study after the discontinuance of a rural post office under this section, which shall include—

(I) the actual cost savings resulting from the discontinuance; and

(II) a comparison between the findings described in subclause (I) and the cost savings that the Postal Service predicted would result from the discontinuance.

(ii) REPORT.—Not later than 2 years after the date of the discontinuance of a rural post office under this section, the Inspector General shall submit a report on the findings of the study conducted under clause (i) with respect to the rural post office to—

“(I) the Postal Regulatory Commission;

“(II) the Board of Governors;

“(III) the Committee on Homeland Security and Governmental Affairs of the Senate;

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

“(V) the Member of the House of Representatives in whose district the rural post office was located; and

“(VI) the Senators in whose State the rural post office was located.

“(iii) SUNSET.—This subparagraph is repealed effective 10 years after the date of enactment of the Postal Reform Act of 2014.

(6) REDUCTIONS IN HOURS OF OPERATION.—

(A) CONSIDERATIONS.—The Postal Service, prior to making a determination under paragraph (2)(A)(ii)(I) to reduce the number of hours per day that a post office operates, shall consider—

(i) the impact of the proposed reduction in hours on local businesses;

(ii) the effect of the proposed reduction in hours on the community served by the post office;

(iii) the ability of the Postal Service to hire qualified employees to operate the post office during the reduced hours;

(iv) the proximity and accessibility of other post offices within 15 miles of the post office, and the hours those post offices are open;

(v) the impact of the proposed reduction in hours on the elderly and other vulnerable populations; and

(vi) the impact of alternative schedules on the community served by the post office, including consideration of which schedules would most effectively mitigate any negative impacts identified under clauses (i) through (v).

(B) FINDINGS.—If the Postal Service determines, after considering the factors under subparagraph (A), to reduce the number of hours per day that a post office operates, the Postal Service shall make available to persons served by the post office—

(i) a summary of the findings of the Postal Service under subparagraph (A);

(ii) the hours during which the post office will be open; and

(iii) an explanation of the change in hours referred to in clause (ii).

**[(5) A determination]**

(7) APPEALS.—A determination of the Postal Service to [close or consolidate] *discontinue* 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)] *under paragraph (4)*. 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 after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings, and conclusions found to be—

**[(A) \* \* \*]**

**[(B) \* \* \*]**

**[(C) \* \* \*]**

(A) \* \* \*

(B) \* \* \*

(C) \* \* \*

**[The \* \* \*]**

*The* \* \* \*

**[(6) For purposes of paragraph (5)]**

(8) DATE OF RECEIPT OF APPEALS.—For purposes of paragraph (7), any appeal received by the Commission shall—

**[(A) \* \* \*]**

**[(B) \* \* \*]**

(A) \* \* \*

(B) \* \* \*

(9) MINIMUM RETAIL STANDARDS.—The Postal Service shall establish minimum standards for retail postal services.

**[(e)(1) In this] (e) PREVIOUSLY OFFERED NONPOSTAL SERVICES.—**

(1) DEFINITION.—In this subsection, the term “nonpostal service” means any service that is not a postal service defined under section 102(5) and that was offered by the Postal Service on the date of enactment of the Postal Reform Act of 2014.

**[(2) Nothing]**

(2) *ELIGIBLE NONPOSTAL SERVICES*.—*Nothing* in this section shall be considered to permit or require that the Postal Service provide any nonpostal service, except that the Postal Service may provide nonpostal services which were offered as of January 1, 2006, as provided under this subsection.

[(3) Not]

(3) *REVIEW OF NONPOSTAL SERVICES*.—*Not* later than 2 years after the date of enactment of the Postal Accountability and Enhancement Act, the Postal Regulatory Commission shall review each nonpostal service offered by the Postal Service on the date of enactment of that Act and determine whether that nonpostal service shall continue, taking into account—

[(A) \* \* \*

[(B) \* \* \*]

(A) \* \* \*

(B) \* \* \*

[(4) Any]

(4) *TERMINATION*.—*Any* nonpostal service not determined to be continued by the Postal Regulatory Commission under paragraph (3) shall terminate.

[(5) If the Postal Regulatory Commission authorizes the Postal Service to continue a nonpostal service under this subsection, the Postal Regulatory Commission shall designate whether the service shall be regulated under this title as a market dominant product, a competitive product, or an experimental product.]

(5) *DESIGNATION*.—*Each nonpostal service authorized under this subsection shall be designated as market-dominant or competitive based on the designation of the nonpostal service in the Mail Classification Schedule as in effect on the date of enactment of the Postal Reform Act of 2014.*

(6) *RULE OF CONSTRUCTION*.—*Nothing in this subsection shall be construed to prevent the Postal Service from providing nonpostal services under subsection (a)(6).*

(f) *CLOSING OR CONSOLIDATION OF CERTAIN POSTAL FACILITIES*.—

(1) *DEFINITION*.—*In this subsection, the term “postal facility” means a processing and distribution center, processing and distribution facility, network distribution center, or other facility that is operated by the Postal Service, the primary function of which is to sort and process mail.*

(2) *AREA MAIL PROCESSING STUDIES*.—

(A) *APPLICABILITY*.—*In this paragraph—*

(i) *the term “area mail processing study” means an area mail processing feasibility study described in section 2–1 of Handbook PO–408 of the Postal Service, entitled “Area Mail Processing Guidelines”, as in effect on October 1, 2013;*

(ii) *the term “closing”, with respect to a covered postal facility, means the transfer of all incoming and outgoing mail sortation and processing operations of the covered postal facility to a different covered postal facility;*

(iii) *the term “consolidate”, with respect to a covered postal facility, means the transfer of either all incoming or all outgoing mail sortation and processing oper-*

ations of the covered postal facility to a different covered postal facility; and

(iv) the term “covered postal facility” means a postal facility, the primary function of which is to sort and process first-class mail originating or designating within a defined geographic area.

(B) *NEW AREA MAIL PROCESSING STUDIES.*—Before making a determination under subsection (a)(3) as to the necessity for the closing or consolidation of a covered postal facility, the Postal Service shall—

(i) conduct an area mail processing study relating to the covered postal facility that includes consideration of a plan to reduce the capacity of the covered postal facility without closing the covered postal facility; and

(ii) upon completing the study under clause (i)—

(I) publish the results of the study on the website of the Postal Service; and

(II) publish a notice that the study is complete and the results of the study are available to the public, including on the website of the Postal Service.

(C) *COMPLETED OR ONGOING AREA MAIL PROCESSING STUDIES.*—

(i) *IN GENERAL.*—In the case of a covered postal facility described in clause (ii), the Postal Service shall—

(I) consider a plan to reduce the capacity of the covered postal facility without closing the covered postal facility; and

(II) publish the results of the consideration under subclause (I) with or as an amendment to the area mail processing study relating to the covered postal facility.

(ii) *POSTAL FACILITIES.*—A covered postal facility described in this clause is a covered postal facility—

(I) for which, as of the date of enactment of this subsection, an area mail processing study—

(aa) has been completed but does not include a plan to reduce the capacity of the covered postal facility without closing the covered postal facility; or

(bb) is in progress; and

(II) which, as of the date of enactment of this subsection, has not been closed or consolidated.

(3) *NOTICE, PUBLIC COMMENT, AND PUBLIC HEARING.*—If the Postal Service makes a determination under subsection (a)(3) to close or consolidate a postal facility, the Postal Service shall—

(A) provide notice of the determination to—

(i) Congress; and

(ii) the Postal Regulatory Commission;

(B) provide adequate public notice of the intention of the Postal Service to close or consolidate the postal facility;

(C) ensure that interested persons have an opportunity to submit public comments during a 45-day period after the

*Postal Service provides the notice of intention under subparagraph (B);*

*(D) before the 45-day period described in subparagraph (C), provide public notice of the opportunity under subparagraph (C) to submit public comments during that period by—*

- (i) publication on the website of the Postal Service;*
- (ii) posting at the affected postal facility; and*
- (iii) publicizing the date and location of the public community meeting under subparagraph (E); and*

*(E) during the 45-day period described in subparagraph (C), conduct a public meeting that provides an opportunity for comments to be submitted verbally or in writing.*

*(4) FURTHER CONSIDERATIONS.—The Postal Service, in making a determination under subsection (a)(3) to close or consolidate a postal facility, shall consider—*

*(A) the views presented by interested persons under paragraph (3);*

*(B) the effect of the closing or consolidation on the affected community, including the impact the closing or consolidation may have on a State, region, or locality;*

*(C) the effect of the closing or consolidation on the travel times and distances for affected customers to access services under the proposed closing or consolidation;*

*(D) the effect of the closing or consolidation on delivery times for all classes of mail and packages;*

*(E) any characteristics of certain geographical areas, such as remoteness, broadband internet availability with a lower rates of access than the average rate of access in other geographical areas of the United States, and weather-related obstacles, that may result in the closing or consolidation having a unique effect;*

*(F) the effect of the closing or consolidation on small businesses in the area, including shipping and communications with customers and suppliers and the corresponding impact on revenues, operations, and growth;*

*(G) the extent to which significant changes in delivery service resulting from the closure or consolidation of the postal facility would affect the ability of individuals and businesses in the region served by the postal facility to participate in the national economy;*

*(H) the ability of the Postal Service to maintain a safe working environment at each postal facility that, as a result of the closing or consolidation, would process the mail that had been processed by the closed or consolidated postal facility, including by examining—*

- (i) the capacity of each affected postal facility to process a greater volume of mail;*
- (ii) the ability of the workforce at each affected postal facility to handle a larger workload; and*
- (iii) whether the Postal Service would need to hire additional employees at affected postal facilities to process the increased volume of mail;*

(I) the extent to which the Postal Service can take action to mitigate significant negative impacts identified through the considerations under this paragraph; and

(J) any other factor the Postal Service determines is necessary.

(5) *NOTICE OF FINAL DETERMINATION; JUSTIFICATION STATEMENT.*—If the Postal Service determines to close or consolidate a postal facility, the Postal Service shall post on the website of the Postal Service—

(A) notice of the final determination to close or consolidate the postal facility; and

(B) a closing or consolidation justification statement that includes—

(i) a response to the public comments received with respect to the considerations described under paragraph (4);

(ii) a description of the considerations made by the Postal Service under paragraph (4); and

(iii) the actions that the Postal Service will take to mitigate any significant negative effects identified under paragraph (4).

(6) *CLOSING OR CONSOLIDATION OF POSTAL FACILITIES.*—

(A) *IN GENERAL.*—Not earlier than 15 days after the date on which the Postal Service posts notice of a final determination and a justification statement under paragraph (5) with respect to a postal facility, the Postal Service may close or consolidate the postal facility.

(B) *ALTERNATIVE INTAKE OF MAIL.*—If the Postal Service closes or consolidates a postal facility under subparagraph (A), the Postal Service shall make reasonable efforts to ensure continued mail receipt from customers of the closed or consolidated postal facility at the same location or at another appropriate location in close geographic proximity to the closed or consolidated postal facility.

(7) *PROTECTION OF CERTAIN INFORMATION.*—Nothing in this subsection shall be construed to require the Postal Service to disclose any—

(A) proprietary data;

(B) information relating to the security of a postal facility; or

(C) information that is exempt from disclosure under section 552 of title 5.

(8) *POSTAL REGULATORY COMMISSION APPEALS.*—

(A) *RIGHT TO APPEAL.*—A determination of the Postal Service to close or consolidate any postal facility may be appealed by any person served by the postal facility to the Postal Regulatory Commission not later than 30 days after the date on which the determination is posted on the Postal Service website under paragraph (5).

(B) *REVIEW BASED ON RECORD.*—The Commission shall review a determination appealed under this paragraph on the basis of the record before the Postal Service in the making of the determination.

(C) *DEADLINE FOR COMMISSION DETERMINATION.*—The Commission shall make a determination based upon a review conducted under subparagraph (B) not later than 90 days after the date on which the Commission receives the appeal of the determination under subparagraph (A).

(D) *BASES FOR SETTING ASIDE POSTAL SERVICE DETERMINATIONS.*—In making a determination under subparagraph (C), the Commission shall set aside any determination, finding, or conclusion of the Postal Service that the Commission determines—

(i) is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

(ii) is without observance of the procedures required under this subsection or any other applicable law; or

(iii) is unsupported by substantial evidence on the record.

(E) *OPTION TO AFFIRM OR REMAND.*—The Commission—

(i) may affirm a determination of the Postal Service appealed under this paragraph or order that the entire matter be returned for further consideration; and

(ii) may not modify the determination of the Postal Service.

(F) *TEMPORARY SUSPENSION.*—The Commission may suspend the effectiveness of a determination of the Postal Service appealed under this paragraph until the final disposition of the appeal.

(G) *APPLICABILITY OF OTHER LAWS.*—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.

(H) *DATE OF RECEIPT OF APPEAL.*—For purposes of subparagraph (A), any appeal received by the Commission shall—

(i) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which the appeal is mailed; or

(ii) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).

(g) *TREATMENT OF NEW NONPOSTAL SERVICES.*—For purposes of chapters 20 and 36 of this title, nonpostal services provided under subsection (a)(6) shall be treated as competitive products.

(h) *FEDERAL REGULATION OF NEW NONPOSTAL SERVICES.*—The Postal Service shall ensure that any nonpostal service provided under subsection (a)(6) that is otherwise subject to the jurisdiction and regulation of a Federal regulatory agency remains subject to the jurisdiction and regulation of the Federal regulatory agency notwithstanding the fact that the nonpostal service is provided by the Postal Service.

(i) *ALTERNATIVE MEANS OF TRANSPORTATION CONTRACTS.*—



(1) *DEFINITION.*—In this subsection, the term “covered route” means a route on which first-class mail and periodicals are transported under an Alternate Means of Transportation contract.

(2) *REQUIREMENTS BEFORE CHANGING TO OTHER MEANS OF TRANSPORTATION.* The Postal Service, prior to making a determination under subsection (a)(1) to transport first-class mail or periodicals on a covered route using a means other than under an Alternate Means of Transportation contract, shall consider—

(A) the effect of the change on—

- (i) each community served by the covered route;
- (ii) businesses, including small businesses, in the area served by the covered route; and
- (iii) employees of the Postal Service involved in transportation on the covered route;

(B) whether the change is consistent with the policy of the Government, as stated in section 101(b), 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;

(C) the extent to which each community served by the covered route lacks access to Internet service;

(D) the extent to which postal customers served by the covered route would continue after the change to receive substantially similar access to essential items and time-sensitive communications;

(E) whether substantial economic savings to the Postal Service would result from the change;

(F) the average daily volume of mail transported on the covered route;

(G) any change in the volume of mail transported on the covered route during the preceding 12 months;

(H) the capacity of available transportation service providers to meet the volume needs of the Postal Service on the covered route;

(I) the ability of the Postal Service to procure and access additional transportation capacity to meet the volume needs of the Postal Service on the covered route;

(J) the impact of the change on postal facilities (as that term is defined in subsection (f)) that use the covered route;

(K) the ability of postal facilities described in subparagraph (J) to continue to provide service that complies with applicable service standards after the change; and

(L) any other factors that the Postal Service determines are necessary.

(3) *DETERMINATIONS.*—Any determination of the Postal Service to transport first-class mail or periodicals on a covered route using a means other than under an Alternate Means of Transportation contract shall—

(A) be in writing;

(B) include the findings of the Postal Service with respect to the considerations required to be made under paragraph (2); and

(C) be made available by public notice to persons served by the covered route.

(4) *ADVANCE NOTICE OF DETERMINATIONS.*—*The Postal Service shall take no action to transport first-class mail or periodicals on a covered route using a means other than under an Alternate Means of Transportation contract until 60 days after the date on which the Postal Service makes available to persons served by the covered route a written determination under paragraph (3).*

#### **§ 411. Cooperation with other Government agencies**<sup>91</sup>

**[Executive agencies]** (a) *FEDERAL GOVERNMENT.*—*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] this subsection shall be under such terms and conditions, including reimbursability, as the Postal Service and the head of the agency concerned shall deem appropriate.*

(b) *STATE, LOCAL, AND TRIBAL GOVERNMENTS.*—

(1) *AUTHORITY OF POSTAL SERVICE.*—*The Postal Service is authorized to furnish property and services to States, local governments, and tribal governments, under such terms and conditions, including the possibility for reimbursement, as the Postal Service and the applicable State, local government, or tribal government shall determine appropriate.*

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

(A) *the term “local government” means—*

(i) *a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments, or regional or interstate government entity;*

(ii) *an agency or instrumentality of an entity described in clause (i); or*

(iii) *a rural community, an unincorporated town or village, or an instrumentality of a rural community or an unincorporated town or village;*

(B) *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*

(C) *the term “tribal government” means the government of an Indian tribe, as that term is defined in section 4(e) of the Indian Self-Determination Act (25 U.S.C. 450b(e)).*

(c) *REPORT.*—*The Postal Service shall submit to the Postal Regulatory Commission, together with the report required under section 3652, a report that details the costs and revenues of the property and services furnished by the Postal Service under this section during the period covered by the report required under section 3652.*

<sup>91</sup>These amendments to 39 U.S.C. § 411 are made by section 302(b) of the bill.

(d) *REIMBURSEMENT DETERMINATION.*—*In determining the possibility for reimbursement under subsections (a) and (b), the Postal Service shall ensure that each property or service furnished under such subsections covers its costs attributable, as that term is defined in section 3631(b).*

\* \* \* \* \*

**§417. Postal Service contracts and congressional oversight authority<sup>92</sup>**

*The Postal Service may not enter into any contract that restricts the ability of Congress to exercise oversight authority.*

\* \* \* \* \*

**CHAPTER 5—POSTAL REGULATORY COMMISSION<sup>93</sup>**

\* \* \* \* \*

**§ 502. Commissioners**

(a) \* \* \*

\* \* \* \* \*

(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under [subsection (f)] *subsections (f) and (g).*

\* \* \* \* \*

(g) *The Commissioners may serve for not more than 2 full terms.*

\* \* \* \* \*

**§ 504. Administration**

(a) The Chairman of the Postal Regulatory Commission shall be the principal executive officer of the Commission. [The Chairman] *Subject to the policies adopted under subsection (b), the Chairman shall exercise or direct the exercise of [all the executive] the day-to-day executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment of personnel employed under the Commission, except that the appointment of heads of major administrative units under the Commission shall require the approval of a majority of the members of the Commission, (2) the supervision of the personnel employed under the Commission and the distribution of business among them and among the Commissioners, and (3) the use and expenditure of funds.*

[(b) In carrying out any of his functions under this section, the Chairman shall be governed by the general policies of the Commission.]

*(b)(1) The Chairman shall be governed by the policies adopted by the Commission under paragraph (2)(A) in carrying out any of the functions under this section.*

<sup>92</sup>This new section 39 U.S.C. 417 is added by section 407 of the bill.

<sup>93</sup>These amendments to 39 U.S.C. chapter 5 are made by section 303(a) of the bill.

(2) *The Commission shall adopt, by a vote of the majority of the members of the Commission, policies that shall govern all functions of the Commission, including the finances, operations, and administration of the Commission.*

(3) *The Commission shall review and, if necessary, revise the policies adopted under paragraph (2) not less frequently than every 4 years. Adoption of revised policies, or re-adoption of existing policies, shall be by a vote of the majority of the members of the Commission.*

(c) **【The Chairman】** *Subject to the policies adopted under subsection (b), the Chairman may obtain such facilities and supplies as may be necessary to permit the Commission to carry out its functions. Any officer or employee appointed under this section shall be paid at rates of compensation and shall be entitled to programs offering employee benefits established under chapter 10 or chapter 12 of this title, as appropriate.*

\* \* \* \* \*

## PART II—PERSONNEL

\* \* \* \* \*

### CHAPTER 10—EMPLOYMENT WITHIN THE POSTAL SERVICE

\* \* \* \* \*

#### **§ 1001. Appointment and status**<sup>94</sup>

(a) \* \* \*

(b) Officers and employees of the Postal Service (other than those individuals appointed under sections 202, 204, and 1001(c) of this title, *and section 3 of the Inspector General Act of 1978 (5 U.S.C. App.)*) shall be in the postal career service, which shall be a part of the civil service. Such appointments and promotions shall be in accordance with the procedures established by the Postal Service. The Postal Service shall establish procedures, in accordance with this title, to assure its officers and employees meaningful opportunities for promotion and career development and to assure its officers and employees full protection of their employment rights by guaranteeing them an opportunity for a fair hearing on adverse actions, with representatives of their own choosing.

\* \* \* \* \*

#### **§ 1004. Supervisory and other managerial organizations**<sup>95</sup>

(a) It shall be the policy of the Postal Service to provide compensation, working conditions, and career opportunities that will assure the attraction and retention of qualified and capable supervisory and other managerial personnel; to provide adequate and reasonable differentials in rates of pay *and fringe benefits* between employees in the clerk and carrier grades in the line work force and supervisory and other managerial personnel; to establish and

<sup>94</sup> This amendment to 39 U.S.C. § 1001 is made by section 406(b)(2) of the bill.

<sup>95</sup> These amendment to 39 U.S.C. § 1004 are made by section 108 of the bill.

maintain continuously a program for all such personnel that reflects the essential importance of a well-trained and well-motivated force to improve the effectiveness of postal operations; and to promote the leadership status of such personnel with respect to rank-and-file employees, recognizing that the role of such personnel in primary level management is particularly vital to the process of converting general postal policies into successful postal operations.

b) The Postal Service shall provide a program for consultation with recognized organizations of supervisory and other managerial personnel who are not subject to collective-bargaining agreements under chapter 12 of this title. Upon presentation of evidence satisfactory to the Postal Service that a supervisory organization represents a majority of supervisors, that an organization (other than an organization representing supervisors) represents at least 20 percent of postmasters, or that a managerial organization (other than an organization representing supervisors or postmasters) represents a substantial percentage of managerial employees, such organization or organizations shall be entitled to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees *as provided under subsection (d) and any changes in, or termination of, pay policies and schedules and fringe benefit programs for members of the supervisors' organization as provided under subsection (e). Such pay policies and fringe benefit programs shall reflect adequate differentials in rates of pay and fringe benefits as provided under subsection (a).*

\* \* \* \* \*

(e)(1) The Postal Service shall, within 45 days of each date on which an agreement is reached on a collective bargaining agreement between the Postal Service and the bargaining representative recognized under section 1203 of this title which represents the largest number of employees, make a proposal for any changes in, *or termination of, pay policies and schedules and fringe benefit programs for members of the supervisors' organization which are to be in effect during the same period as covered by such agreement.*

\* \* \* \* \*

#### **§ 1005. Applicability of laws relating to Federal employees<sup>96</sup>**

(a)(1) \* \* \*

\* \* \* \* \*

(3) The provisions of this subsection shall not apply to those individuals appointed under sections 202, 204, and 1001(c) of this title, *and section 3 of the Inspector General Act of 1978 (5 U.S.C. App.).*

(4)(A) Subchapter II of chapter 75 of title 5 shall apply—

(i) \* \* \*

(ii) to any other individual who—

¶(I) is in the position of a supervisor or a management employee in the Postal Service, or is an employee of the

<sup>96</sup>In 39 U.S.C. 1005, the amendment to subsection (a)(3) is made by section 406(b)(3)) of the bill, the amendment to subsection (a)(4) is made by section 107 of the bill, and the amendments to subsections (d) and (f) and the addition of new subsection (g) are made by section 102 of the bill.

Postal Service engaged in personnel work in other than a purely nonconfidential clerical capacity; and】

(I) *is an officer or employee of the Postal Service who—*

*(aa) is not represented by a bargaining representative recognized under section 1203; and*

*(bb) is in a supervisory, professional, technical, clerical, administrative, or managerial position covered by the Executive and Administrative Schedule; and*

\* \* \* \* \*

(d)(1) 【Officers】 *Except as provided in subsection (g), officers and employees of the Postal Service (other than the Governors) shall be covered by chapters 83 and 84 of title 5. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in or determined under such chapter 83 and subchapter II of such chapter 84, respectively. The Postal Service shall pay into the Federal Retirement Thrift Savings Fund the amounts specified in or determined under subchapters III and VII of such chapter 84.*

\* \* \* \* \*

(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 84, 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.】 *this subsection or subsection (g).* 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.

(g)(1) *In this subsection—*

(A) *the term “collective bargaining agreement” means a collective bargaining agreement between the Postal Service and a bargaining representative recognized under section 1203 entered into after the date of enactment of the Postal Reform Act of 2014;*

(B) *the term “new employee” means an individual who becomes an officer or employee of the Postal Service after the date of enactment of the Postal Reform Act of 2014; and*

(C) *the term “not eligible to receive FERS service credit”, with respect to an officer or employee of the Postal Service, means that service by the officer or employee of the Postal Service as an officer or employee of the Postal Service shall not be creditable service for purposes of chapter 84 of title 5.*

(2)(A) A collective bargaining agreement may provide, notwithstanding chapter 84 of title 5, that some or all new employees covered under the collective bargaining agreement shall be not eligible to receive FERS service credit for service performed during any pay period beginning after the effective date of the provision.

(B) If a new employee is not eligible to receive FERS credit pursuant to a collective bargaining agreement, any subsequent service by the new employee as an officer or employee of the Postal Service shall not be creditable service for purposes of chapter 84 of title 5.

(C) Subject to the requirements under this subsection, a collective bargaining agreement may include 1 or more additional retirement benefit plans for the benefit of some or all new employees covered under the collective bargaining agreement.

(3)(A) A collective bargaining agreement may establish, with respect to some or all new employees covered under the collective bargaining agreement—

(i) without regard to section 8422 of title 5—

(I) the amounts to be deducted and withheld from the pay of the new employees for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund; and

(II) the corresponding adjustment under section 8423(a)(5)(B)(iii) of title 5 to the amount of the contributions to be made by the Postal Service to the Fund; and

(ii) for any retirement benefit plan established under the collective bargaining agreement, the amounts to be deducted and withheld from the pay of the new employees under the retirement benefit plan for the benefit of the new employees.

(B) Except as provided in paragraph (2)(B), a collective bargaining agreement may establish the amounts described in subparagraph (A)(i) with respect to some or all new employees who were covered under a previous collective bargaining agreement.

(4)(A) A collective bargaining agreement among the Postal Service and all bargaining representatives recognized under section 1203 may establish, without regard to section 8432 of title 5, with respect to some or all new employees covered under the collective bargaining agreement, whether the Postal Service shall make contributions to the Thrift Savings Fund for the benefit of the new employees, and, if the Postal Service shall make such contributions, the amounts that the Postal Service shall contribute.

(B) A collective bargaining agreement described in subparagraph (A) may not establish more than 1 option regarding the contributions by the Postal Service to the Thrift Savings Fund that will apply to some or all new employees covered under the agreement.

(C) If a collective bargaining agreement described in subparagraph (A) is not in effect, and if the Postal Service or a bargaining representative requests that the Postal Service and all bargaining representatives commence collective bargaining to seek such an agreement, the procedures under section 1207(d) shall apply.

(D) Except as provided in subparagraph (A), nothing in this subsection or in a provision of a collective bargaining agreement entered under this subsection shall affect the coverage of an officer or

*employee of the Postal Service under subchapter III of chapter 84 of title 5.*

\* \* \* \* \*

## CHAPTER 12—EMPLOYEE-MANAGEMENT AGREEMENTS

\* \* \* \* \*

### § 1207. Labor disputes<sup>97</sup>

(a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

\* \* \* \* \*

(2)(A) 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.]** *The arbitration board shall render a decision not later than 45 days after the date of its appointment.*

(B) *In rendering a decision under this paragraph, the arbitration board shall consider such relevant factors as the financial condition of the Postal Service.*

\* \* \* \* \*

(4) *Nothing in this section may be construed to limit the relevant factors that the arbitration board may take into consideration in rendering a decision under paragraph (2).*

\* \* \* \* \*

## PART III—MODERNIZATION AND FISCAL ADMINISTRATION

\* \* \* \* \*

### CHAPTER 20—FINANCE

Sec.

2001. Definitions.

\* \* \* \* \*

2011. Provisions relating to competitive products.

2012. *Provisions relating to workers' compensation prefunding.*

\* \* \* \* \*

### § 2003. The Postal Service Fund<sup>98</sup>

(a) \* \* \*

(b) Except as otherwise provided in section 2011, there shall be deposited in the Fund, subject to withdrawal by check by the Postal Service—

<sup>97</sup>These amendment to 39 U.S.C. § 1207 are made by section 105 of the bill.

<sup>98</sup>These amendment to 39 U.S.C. § 2003 are made by section 302(c)(3) of the bill.



(1) revenues from **postal and nonpostal services** *postal services, nonpostal services authorized under section 404(3), and property and services authorized under section 411, rendered by the Postal Service;*

\* \* \* \* \*

**2012. Provisions relating to workers' compensation prefunding**<sup>99</sup>

(a) **DEFINITIONS.**—

(1) **IN GENERAL.**—*In this section—*

(A) *the term “adjusted net income”, except as provided in paragraph (2), means the net income (or loss) reported by the Postal Service in the statement of operations included in the annual report required under section 3654(a)(1)(B);*

(B) *the term “Fund” means the Postal Service Workers' Compensation Accrued Liability Fund established under subsection (b); and*

(C) *the term “Postal Service actuarial liability” means, as of September 30 of a fiscal year, the net present value of projected future payments required to be made by the Postal Service under section 8147 of title 5 (including any payments required to be made from the Fund under subsection (f) of this section) on account of injuries or deaths that occurred during that fiscal year or any preceding fiscal year.*

(2) **CALCULATION OF ADJUSTED NET INCOME.**—*In calculating adjusted net income for a fiscal year—*

(A) *any payment made under subsection (e) shall not be taken into account; and*

(B) *any change in the net present value of projected future payments required to be made by the Postal Service under section 8147 of title 5 shall not be taken into account.*

(b) **ESTABLISHMENT.**—*There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Workers' Compensation Accrued Liability Fund.*

(c) **AVAILABILITY.**—*The Fund shall be available without fiscal year limitation for payments required under subsection (f).*

(d) **INVESTMENT.**—

(1) **IN GENERAL.**—*The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States, such currently available portions of the Fund as are not immediately required for payments from the Fund.*

(2) **MANNER OF INVESTMENTS.**—*Investments under paragraph (1) shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348 of title 5.*

(e) **PAYMENTS TO FUND.**—

(1) **COST ATTRIBUTABLE TO 1 YEAR OF EMPLOYEES' SERVICE.**—*Not later than June 30, 2017, and not later than June 30 of each year thereafter, the Postal Service shall compute—*

(A) *with respect to each of the 3 preceding fiscal years, the net present value, as of September 30 of the fiscal year,*

<sup>99</sup>This new section 39 U.S.C. § 2012 is added by section 106(a) of the bill.

of projected future payments required to be paid by the Postal Service under section 8147 of title 5 on account of injuries or deaths that occurred during the fiscal year;

(B) for each of the 3 amounts computed under subparagraph (A), the sum of—

(i) the amount; and

(ii) accrued interest on the amount through September 30 of the preceding fiscal year; and

(C) the average of the 3 sums computed under subparagraph (B).

(2) **LIQUIDATION SCHEDULE.**—

(A) **COMPUTATION; RECOMPUTATION.**—Not later than June 30, 2017, the Postal Service shall compute, and not later than June 30 of each year thereafter the Postal Service shall recompute, a schedule including a series of annual installments that provide for the liquidation of the amount described in subparagraph (B) (regardless of whether the amount is a liability or surplus), including interest at the rate used in the computations under paragraph (1), by the later of—

(i) September 30, 2057; or

(ii) September 30 of the fiscal year that is 15 years after the fiscal year in which the computation or re-computation is made.

(B) **AMOUNT TO BE LIQUIDATED.**—The amount described in this subparagraph is the difference between—

(i) the difference between—

(I) 80 percent of the Postal Service actuarial liability as of September 30 of the preceding fiscal year; and

(II) 80 percent of the amount computed under paragraph (1)(C) as of September 30 of the preceding fiscal year; and

(ii) the value of the assets of the Fund as of September 30 of the preceding fiscal year.

(3) **LIQUIDATION OF LIABILITY.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), not later than September 30, 2018, and not later than September 30 of each year thereafter, the Postal Service shall pay into the Fund the lesser of—

(i) the sum of—

(I) 80 percent of the amount computed under paragraph (1)(C) during the fiscal year; and

(II) any annual installment computed under paragraph (2)(A); and

“(ii) the amount by which—

(I) the amount of adjusted net income earned by the Postal Service during the fiscal year that ended 1 year before the date by which a payment is required to be made under this subparagraph; exceeds

(II) \$1,000,000,000.

(B) **EXCEPTION.**—If the amount of adjusted net income earned by the Postal Service during a fiscal year does not

*exceed \$1,000,000,000, the Postal Service shall not be required to make a payment under this paragraph during the subsequent fiscal year.*

**(f) PAYMENTS FROM FUND.—**

**(1) IN GENERAL.**—*Beginning with the fiscal year ending on September 30, 2018, for each payment that the Postal Service is required to make under section 8147 of title 5 during the fiscal year—*

*(A) a fraction of the amount of the payment shall be paid from the Fund in accordance with paragraph (2) of this subsection; and*

*(B) the remaining amount of the payment shall be paid by the Postal Service.*

**(2) FRACTION.**—*The fraction to be paid from the Fund, as required under paragraph (1), is, with respect to the fiscal year during which the payment is required to be made, the quotient of—*

*(A) the value of the assets of the Fund as of September 30 of the preceding fiscal year; and*

*(B) the sum of—*

*(i) the Postal Service actuarial liability as of the end of the fiscal year before the preceding fiscal year, plus interest accrued on that amount through the end of the preceding fiscal year; and*

*(ii) the amount calculated under subsection (e)(1)(C) as of the end of the fiscal year before the preceding fiscal year, plus interest accrued on that amount through the end of the preceding fiscal year.*

**(g) ASSUMPTIONS AND METHODOLOGY.**—*The assumptions and methodology used in the computations under this section shall be consistent, insofar as reasonable and appropriate, with the assumptions and methodology used by the Postal Service in making computations of its assets and liabilities for the financial reporting required under section 3654.*

\* \* \* \* \*

## **PART IV—MAIL MATTER**

\* \* \* \* \*

### **CHAPTER 30—NONMAILABLE MATTER**

\* \* \* \* \*

#### **§ 3001. Nonmailable Matter**<sup>100</sup>

**(a)** \* \* \*

\* \* \* \* \*

*(p)(1) In this subsection, the terms “distilled spirits”, “wine”, and “malt beverage” have the same meanings as in section 117 of the Federal Alcohol Administration Act (27 U.S.C. 211).*

*(2) Distilled spirits, wine, or malt beverages shall be considered mailable if mailed—*

<sup>100</sup>This amendment to 39 U.S.C. § 3001 is made by section 303(b) of the bill.

- (A) *in accordance with the laws and regulations of—*  
     (i) *the State, territory, or district of the United States where the sender or duly authorized agent initiates the mailing; and*  
     (ii) *the State, territory, or district of the United States where the addressee or duly authorized agent takes delivery; and*  
 (B) *to an addressee who is at least 21 years of age—*  
     (i) *who provides a signature and presents a valid, government-issued photo identification upon delivery; or*  
     (ii) *the duly authorized agent of whom—*  
         (I) *is at least 21 years of age; and*  
         (II) *provides a signature and presents a valid, government-issued photo identification upon delivery.*  
 (3) *The Postal Service shall prescribe such regulations as may be necessary to carry out this subsection.*

\* \* \* \* \*

## CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

\* \* \* \* \*

Sec.

3621. Applicability; definitions.

\* \* \* \* \*

**[3622. Modern rate regulation.]**

3622. *Modern rate system.*

\* \* \* \* \*

**[3661. Postal Services.]**

3661. *Postal services for market—dominant products.*

\* \* \* \* \*

3691. Establishment of modern service standards.

3692. *Delivery point modernization.*

\* \* \* \* \*

### Subchapter I—Provisions Relating to Market Dominant Products

\* \* \* \* \*

#### **[§ 3622. Modern rate regulation** <sup>101</sup>

**[(a) AUTHORITY GENERALLY.—** The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

**[(b) OBJECTIVES.—** Such system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

**[(1) To maximize incentives to reduce costs and increase efficiency.**

**[(2) To create predictability and stability in rates.**

**[(3) To maintain high quality service standards established under section 3691.**

**[(4) To allow the Postal Service pricing flexibility.**

<sup>101</sup>This amendment to 39 U.S.C. § 3622 is made by section 301 of the bill.

[(5) To assure adequate revenues, including retained earnings, to maintain financial stability.

[(6) To reduce the administrative burden and increase the transparency of the ratemaking process.

[(7) To enhance mail security and deter terrorism.

[(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

[(9) To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products.

[(c) FACTORS.— In establishing or revising such system, the Postal Regulatory Commission shall take into account—

[(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

[(2) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

[(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

[(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

[(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

[(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

[(7) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;

[(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

[(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

[(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 in-

creasing 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

[(B) do not cause unreasonable harm to the marketplace.

[(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

[(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;

[(13) the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and

[(14) the policies of this title as well as such other factors as the Commission determines appropriate.

[(d) REQUIREMENTS.—

[(1) IN GENERAL.— The system for regulating rates and classes for market-dominant products shall—

[(A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

[(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

[(C) not later than 45 days before the implementation of any adjustment in rates under this section, including adjustments made under subsection (c)(10)—

[(i) require the Postal Service to provide public notice of the adjustment;

[(ii) provide an opportunity for review by the Postal Regulatory Commission;

[(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under subparagraph (A); and

[(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A);

[(D) establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and

[(E) 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 com-

ment, 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.

**[(2) LIMITATIONS.—**

**[(A) CLASSES OF MAIL.—**Except as provided under subparagraph (C), the annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

**[(B) ROUNDING OF RATES AND FEES.—**Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

**[(C) USE OF UNUSED RATE AUTHORITY.—**

**[(i) DEFINITION.—**In this subparagraph, the term “unused rate adjustment authority” means the difference between—

**[(I)** the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

**[(II)** the amount of the rate adjustment the Postal Service actually makes in that year.

**[(ii) AUTHORITY.—**Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

**[(iii) LIMITATIONS.—**In exercising the authority under clause (ii) in any year, the Postal Service—

**[(I)** may use unused rate adjustment authority from more than 1 year;

**[(II)** may use any part of the unused rate adjustment authority from any year;

**[(III)** shall use the unused rate adjustment authority from the earliest year such authority first occurred and then each following year; and

**[(IV)** for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

**[(3) REVIEW.—**Ten years after the date of enactment of the Postal Accountability and Enhancement Act and as appropriate thereafter, the Commission shall review the system for regulating rates and classes for market-dominant products established under this section to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c). If the Commission determines, after notice and opportunity for public comment, that the sys-

tem is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.

**[(e) WORKSHARE DISCOUNTS.—**

**[(1) DEFINITION.—**In this subsection, the term “workshare discount” refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

**[(2) SCOPE.—**The Postal Regulatory Commission shall ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

**[(A) the discount is—**

**[(i) associated with a new postal service, a change to an existing postal service, or with a new work share initiative related to an existing postal service; and**

**[(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;**

**[(B) the amount of the discount above costs avoided—**

**[(i) is necessary to mitigate rate shock; and**

**[(ii) will be phased out over time;**

**[(C) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value; or**

**[(D) reduction or elimination of the discount would impede the efficient operation of the Postal Service.**

**[(3) LIMITATION.—**Nothing in this subsection shall require that a work share discount be reduced or eliminated if the reduction or elimination of the discount would—

**[(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced or eliminated; or**

**[(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount.**

**[(4) REPORT.—**Whenever the Postal Service establishes a workshare discount rate, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

**[(A) explains the Postal Service’s reasons for establishing the rate;**

**[(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and**



[(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

[(f) TRANSITION RULE.—For the 1-year period beginning on the date of enactment of this section, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section. Proceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section.]

### **§ 3622. Modern rate system**

(a) *AUTHORITY GENERALLY.*—

(1) *BOARD OF GOVERNORS.*—*The Board may, acting in accordance with this section, establish, and from time to time thereafter revise, a system of rates and classes for market-dominant products (referred to in this section as the “system”), consistent with the requirements under this section.*

(2) *NO DELEGATION.*—*The authority under this section may not be delegated to the Postmaster General or to any other individual or entity.*

(b) *OBJECTIVES.*—*The system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:*

(1) *To maximize incentives for the Postal Service to reduce costs and increase efficiency.*

(2) *To create predictability and stability in rates.*

(3) *To maintain high quality service standards established under section 3691.*

(4) *To assure adequate revenues and maintain the financial stability of the Postal Service.*

(5) *To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.*

(6) *To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products, in accordance with regulations promulgated by the Postal Regulatory Commission (referred to in this section as the “Commission”) under section 3633.*

(c) *FACTORS.*—*In establishing or revising the system, the Board and the Commission shall take into account—*

(1) *the value of the mail service provided through each class or type of mail service to both the sender and the recipient, including the educational, cultural, scientific, and informational value;*

(2) *the direct and indirect postal costs attributable to each class or type of mail service;*

(3) *the effect of rate increases upon Postal Service customers;*

(4) the available alternative means of sending and receiving letters and other mail matter;

(5) the simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services; and

(6) the policies of this title as well as such other factors as the Board or the Commission determines appropriate.

(d) **ADJUSTMENTS CONSISTENT WITH SYSTEM.**—

(1) **NOTICE.**—The Board shall provide notice of any adjustment in rates or classes proposed to be made under this section that is consistent with the system then in effect—

(A) not later than—

(i) 90 days before the implementation of any rate or class adjustment that affects all or substantially all market-dominant products; and

(ii) 45 days before the implementation of any other rate or class adjustment; and

(B) to—

(i) the public, including by—

(I) publication in the *Federal Register*; and

(II) posting on the website of the Postal Service;

and

(ii) the Commission.

(2) **PUBLIC COMMENT.**—The Board shall solicit and receive public comments on any proposed rate or class adjustment, and shall take such comments into account in making its final determination as to a rate or class adjustment.

(3) **FINAL DECISION.**—Not later than 10 days before the implementation of a rate or class adjustment, the Board shall issue a final decision on the adjustment which shall—

(A) be published in the *Federal Register* and posted on the website of the Postal Service; and

(B) include an explanation responding to all relevant comments received.

(4) **COMMISSION REVIEW.**—

(A) **IN GENERAL.**—Any adjustment made by the Board under this section shall be subject to review by the Commission under section 3662.

(B) **APPLICATION OF SECTION 3662.**—In a review described in subparagraph (A), section 3662 shall be applied by substituting “Board of Governors” for “Postal Service” where applicable.

(e) **RATE BASE.**—The rates for market-dominant products in effect on the date of enactment of the Postal Reform Act of 2014, including any rates adjusted under this section on an expedited basis due to either extraordinary or exceptional circumstances, shall remain in effect unless adjusted in accordance with this section.

(f) **LIMITATIONS ON RATE ADJUSTMENTS.**—

(1) **APPLICABILITY OF LIMITATIONS.**—The limitations under this subsection shall remain in effect unless revised or eliminated under subsection (g).

(2) **ANNUAL LIMITATION.**—There shall be an annual limitation on the percentage changes in rates for market-dominant products as a whole under this section that shall be equal to the per-

centage change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Board provides notice of its intention to increase rates.

(3) **CONDITIONS.**—

(A) **CLASSES OF MAIL.**—The Board shall ensure that the annual percentage change in rates under this section for a class of mail, as defined in the Domestic Mail Classification Schedule (as in effect on the date of enactment of the Postal Accountability and Enhancement Act), does not exceed the annual limitation under paragraph (2) by more than 2 percentage points.

(B) **USE OF UNUSED RATE ADJUSTMENT AUTHORITY.**—

(i) **DEFINITION.**—In this subparagraph, the term “unused rate adjustment authority” means the difference between—

(I) the maximum amount of a rate adjustment that the Board is authorized to make in any year subject to the annual limitation under paragraph (2); and

(II) the amount of the rate adjustment the Board actually makes in that year.

(ii) **AUTHORITY.**—Subject to clause (iii), the Board may use any unused rate adjustment authority for any of the 5 years following the year the authority occurred.

(iii) **LIMITATIONS.**—In exercising the authority under clause (ii) in any year, the Governors—

(I) may use unused rate adjustment authority from more than 1 year;

(II) may use any part of the unused rate adjustment authority from any year; and

(III) may not exceed the annual limitation under paragraph (2) by more than 2 percentage points.

(4) **EXCEPTION TO ANNUAL LIMITATION.**—Notwithstanding the annual limitation under paragraph (2), and provided there is not sufficient unused rate adjustment authority under paragraph (3)(B), 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 public comment, and within 90 days after any request by the Board, 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.

(g) **ADOPTION OF REVISIONS TO SYSTEM OR NEW SYSTEM.**—

(1) **BOARD PROPOSAL.**—Not earlier than January 1, 2017, and as appropriate thereafter, the Board may, after notice and opportunity for public comment, submit to the Commission a proposal for revisions to the system or a new system, consistent with the objectives under subsection (b), taking into account the factors under subsection (c), and which may include revision or elimination of the limitations established under subsection (f).

(2) **FINAL COMMISSION ACTION.**—The Commission—

(A) shall consider a proposal submitted by the Board under paragraph (1); and

(B) may—

- (i) adopt the proposal, without modification; or
- (ii) reject the proposal.

(h) *WORKSHARE DISCOUNTS.*—

(1) *DEFINITION.*—In this subsection, the term “workshare discount” refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Board in accordance with subsection (a).

(2) *SCOPE.*—The Board shall ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

(A) the discount is—

- (i) associated with a new postal service, a change to an existing postal service, or with a new work share initiative related to an existing postal service; and
- (ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

(B) the amount of the discount above costs avoided—

- (i) is necessary to mitigate rate shock; and
- (ii) will be phased out over time;

(C) the discount is provided in connection with a category of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value; or

(D) reduction or elimination of the discount would—

- (i) impede the efficient operation of the Postal Service;
- (ii) lead to a loss of volume in the affected category of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category subject to the discount below what it otherwise would have been if the discount had not been reduced or eliminated; or
- (iii) result in a further increase in the rates paid by mailers not able to take advantage of the discount.

(3) *NOTICE.*—Whenever a workshare discount is established, the Board shall ensure that the notice provided under subsection (d)(1) includes—

- (A) the reasons for establishing the discount;
- (B) the data, economic analyses, and other information relied on by the Board to justify the rate; and
- (C) a certification that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

(i) *NEGOTIATED SERVICE AGREEMENTS.*—The Board shall ensure that any agreement between the Postal Service and a mailer that adjusts rates or classes in a manner that is specific to the mailer—

(1) is available on public and reasonable terms to similarly situated mailers;

(2) either—

(A) improves 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 taking into account changes in volume and revenues from mailers ineligible for the agreement; or

(B) enhances the performance of mail preparation, processing, transportation, or other functions; and

(3) does not cause—

(A) unfair competitive advantage for the Postal Service or mailers eligible for the agreement; or

(B) unreasonable disruption to the volume or revenues of other mailers ineligible for the agreement.

(j) **CONSIDERATION OF PRIOR COMMISSION DECISIONS.**—In making any determination under this section, including the construction and interpretation of the terms used in this section, the Board shall give consideration to decisions of the Commission made prior to the date of enactment of the Postal Reform Act of 2014, and shall include an explanation of any deviation from such decisions in the notice required under subsection (d)(1).

\* \* \* \* \*

#### **§ 3626. Reduced Rates**<sup>102</sup>

(a) \* \* \*

\* \* \* \* \*

[(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.]

[(f)](e) In the administration of this chapter, the rates for mail under former section 4358(g) of this title shall be established without regard to either the provisions of such former section 4358(g) or the provisions of this section.

<sup>102</sup> These amendments to 39 U.S.C. § 3626 are made by section 301(b) of the bill.

[(g)](f)(1) In the administration of this section, the rates for mail under subsections (a), (b), and (c) of former section 4358 of this title shall not apply to an issue of a publication if the number of copies of such issue distributed within the county of publication is less than the number equal to the sum of 50 percent of the total paid circulation of such issue plus one.

\* \* \* \* \*

[(h)](g) In the administration of this section, the number of copies of a subscription publication mailed to nonsubscribers during a calendar year at rates under subsections (a), (b), and (c) of former section 4358 of this title may not exceed 10 percent of the number of copies of such publication mailed at such rates to subscribers.

\* \* \* \* \*

[(j)](h)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail which advertises, promotes, offers, or, for a fee or consideration, recommends, describes, or announces the availability of—

\* \* \* \* \*

[(k)](i)(1) No person or organization shall mail, or cause to be mailed by contractual agreement or otherwise, at the rates for mail under former section 4452(b) or 4452(c) of this title, any matter to which those rates do not apply.

\* \* \* \* \*

[(l)](j) In the administration of this section, the term “advertising”, as used in former section 4358(j)(2) of this title, does not include the publisher’s own advertising in a publication published by the official highway or development agency of a State.

[(m)](k)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail consisting of products, unless such products—

\* \* \* \* \*

[(n)](l) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).

\* \* \* \* \*

### Subchapter III—Provisions Relating to Experimental and New Products

\* \* \* \* \*

#### § 3641. Market Tests of Experimental Products<sup>103</sup>

(a) \* \* \*

(b) CONDITIONS.— A product may not be tested under this section unless it satisfies each of the following:

(1) SIGNIFICANTLY DIFFERENT PRODUCT.— The product is, from the viewpoint of the mail users (*or the appropriate con-*

<sup>103</sup> These amendment to 39 U.S.C. § 3641 are made by section 302(c)(3) of the bill.

*sumers in the case of nonpostal services*), significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

(2) \* \* \*

(3) CORRECT CATEGORIZATION.— The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under [section 3642(b)(1)] *sections 404(g) and 3642(b)(1)*. Costs and revenues attributable to a product identified as competitive shall be included in any determination under [section 3633(3)] *section 3633(a)(3)* (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

\* \* \* \* \*

(e) DOLLAR-AMOUNT LIMITATION.—

(1) IN GENERAL.— A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed [§10,000,000] *\$50,000,000* in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined under subsection (b)(2)).

(2) EXEMPTION AUTHORITY.— The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed [§50,000,000] *\$100,000,000* in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

\* \* \* \* \*

#### Subchapter IV—Reporting Requirements and Related Provisions

\* \* \* \* \*

### § 3654. Additional financial reporting<sup>104</sup>

(a) \* \* \*

(b) Financial reporting.

(1) \* \* \*

\* \* \* \* \*

<sup>104</sup> This amendment to 39 U.S.C. § 3654 is made by section 106 of the bill.

(4)(A) *Each report required by subsection (a)(1)(B) shall include, with respect to the workers' compensation obligations of the Postal Service—*

*(i) as of the last day of the fiscal year to which the report applies, the amount of the Postal Service actuarial liability;*

*(ii) the value of the assets in the Fund, and the difference between that amount and the amount of the Postal Service actuarial liability;*

*(iii) the amounts calculated under paragraphs (1) and (2) of section 2012(e);*

*(iv) significant methods and assumptions underlying the relevant actuarial valuations;*

*(v) any payments to the Fund and from the Fund for the fiscal year to which the report applies; and*

*(vi) the assumed rate of return on balances of the Fund and the actual rate of return for the fiscal year to which the report applies.*

*(B) In this paragraph, the terms “Fund” and “Postal Service actuarial liability” have the meaning given those terms in section 2012(a).*

\* \* \* \* \*

## Subchapter V—Postal Services, Complaints, and Judicial Review

### § 3661. Postal Services<sup>105</sup>

[(a) The Postal Service shall develop and promote adequate and efficient postal services.

[(b) When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change.

[(c) The Commission shall not issue its opinion on any proposal until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mail, and an officer of the Commission who shall be required to represent the interests of the general public. The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his judgment the opinion conforms to the policies established under this title.]

#### **§ 3661. Postal services for market-dominant products**

*(a) GENERAL OBLIGATION.—The Postal Service shall develop and promote adequate and efficient postal services with respect to its market-dominant products.*

*(b) PROPOSED CHANGES FOR MARKET-DOMINANT PRODUCTS.—*

*(1) SUBMISSION OF PROPOSAL.—If the Postal Service determines that there should be a change in the nature of postal services relating to market-dominant products that will generally affect service on a nationwide or substantially nationwide*

<sup>105</sup> This amendment to 39 U.S.C. § 3661 is made by section 206 of the bill.



basis, the Postal Service shall submit a proposal to the Postal Regulatory Commission requesting an advisory opinion on the change.

(2) *ADVISORY OPINION.*—Upon receipt of a proposal under paragraph (1), the Postal Regulatory Commission shall—

(A) provide notice and an opportunity for public comment and a public hearing on the proposal; and

(B) issue an advisory opinion not later than—

(i) 90 days after the date on which the Postal Regulatory Commission receives the proposal; or

(ii) a date that the Postal Regulatory Commission and the Postal Service may determine jointly.

(3) *RESPONSE TO OPINION.*—The Postal Service shall submit to the President and to Congress a response to an advisory opinion issued under paragraph (2) that includes—

(A) a statement of whether the Postal Service plans to modify the proposal to address any concerns or implement any recommendations made by the Commission; and

(B) for any matter that the Postal Service determines not to address and any recommendation that the Postal Service determines not to implement, the reasons for the determination.

(4) *ACTION OF PROPOSAL.*—The Postal Service may take action regarding a proposal submitted under paragraph (1)—

(A) on or after the date on which the Postal Service submits the response required under paragraph (3);

(B) on or after a date that the Postal Regulatory Commission and the Postal Service may determine jointly; or

(C) after the date described in paragraph (2)(B), if—

(i) the Postal Regulatory Commission fails to issue an advisory opinion on or before the date described in paragraph (2)(B); and

(ii) the action is not otherwise prohibited under Federal law.

(5) *MODIFICATION OF TIMELINE.*—At any time, the Postal Service and the Postal Regulatory Commission may jointly re-determine a date determined under paragraph (2)(B)(ii) or (4)(B).

(c) *Limitation.*—

(1) *NO CHANGES FOR COMPETITIVE PRODUCTS.*—Nothing in this section shall be construed as authorizing the making of changes under this section to the nature of service provided for competitive products.

(2) *HYBRID CHANGES.*—For a change that affects the nature of service provided for both market-dominant products and competitive products, only the effect on market-dominant products shall be subject to this section.

## **§ 3662. Rate and Service Complaints**<sup>106</sup>

(a) *IN GENERAL.*—Any interested person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in

<sup>106</sup>This amendment to 39 U.S.C. § 3662 is made by section 302(a)(2) of the bill.

conformance with the requirements of the provisions of sections 101(d), 401(2), 403(c), 404(a)(6), 404a, or 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

\* \* \* \* \*

### Subchapter VII—Modern Service Standards

\* \* \* \* \*

#### **§ 3692. Delivery point modernization**<sup>107</sup>

(a) *DEFINITIONS.*—In this section, the following definitions shall apply:

(1) *CENTRALIZED DELIVERY.*—The term “centralized delivery” means a primary mode of mail delivery whereby mail is delivered to a group or cluster of mail receptacles at a single location.

(2) *CURBSIDE DELIVERY.*—The term “curbside delivery” means a primary mode of mail delivery whereby mail is delivered to a mail receptacle that is situated at the edge of a public sidewalk abutting a road or curb, at a road, or at a curb.

(3) *DELIVERY POINT.*—The term “delivery point” means a mailbox or other receptacle to which mail is delivered.

(4) *DISTRICT OFFICE.*—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).

(5) *DOOR DELIVERY.*—The term “door delivery”—

(A) means a primary mode of mail delivery whereby mail is—

(i) delivered to a mail receptacle at or near a postal customer’s door; or

(ii) hand-delivered to a postal customer; and

(B) does not include curbside or centralized delivery.

(6) *PRIMARY MODE OF MAIL DELIVERY.*—The term “primary mode of mail delivery” means the typical method by which the Postal Service delivers mail to the delivery point of a postal customer.

(b) *POLICY.*—Except as otherwise provided in this section, including paragraphs (4) and (5) of subsection (c), it shall be the policy of the Postal Service to use the primary mode of mail delivery that is most cost effective and is in the best long-term interest of the Postal Service.

(c) *CONVERSION TO OTHER DELIVERY MODES.*—

(1) *NEW ADDRESSES.*—Except as provided in paragraphs (4) and (5), the Postal Service shall provide centralized delivery to new addresses established after the date of enactment of the Postal Reform Act of 2014, or if centralized delivery is not practicable shall provide curbside delivery.

(2) *BUSINESS ADDRESS CONVERSION.*—The Postal Service shall carry out a program to convert business addresses with

<sup>107</sup> This new 39 U.S.C. § 3692 is added by section 205 of the bill.

door delivery on the date of enactment of the Postal Reform Act of 2014 to centralized delivery or to curbside delivery.

(3) *RESIDENTIAL ADDRESS CONVERSION.*—

(A) *IDENTIFICATION.*—Not later than 9 months after the date of enactment of the Postal Reform Act of 2014, the head of each district office of the Postal Service shall identify residential addresses within the service area of the district office that are appropriate candidates for conversion from door delivery to a more cost-effective primary mode of delivery, in accordance with standards established by the Postal Service.

(B) *VOLUNTARY CONVERSION.*—Not later than 1 year after the date of enactment of the Postal Reform Act of 2014, and consistent with subsection (b) and paragraph (4), the Postal Service shall begin implementation of a program to convert, on a voluntary basis, the addresses identified under subparagraph (A) from door delivery to a more cost-effective primary mode of delivery.

(C) *PROCEDURES.*—In pursuing conversion under subparagraph (B), the Postal Service shall establish procedures to—

(i) solicit and consider input from postal customers, State and local governments, local associations, and property owners; and

(ii) place centralized delivery points in locations that maximize delivery efficiency, ease of use for postal customers, and respect for private property rights.

(4) *EXCEPTIONS.*—In establishing a primary mode of mail delivery for new addresses under paragraph (1) or converting the primary mode of mail delivery for an address under paragraph (2) or (3), the Postal Service may provide door delivery if—

(A) a physical barrier precludes the efficient provision of centralized delivery or curbside delivery;

(B) the address is located in a registered historic district, as that term is defined in section 47(c)(3)(B) of the Internal Revenue Code of 1986; or

(C) the Postal Service determines that the provision of centralized delivery or curbside delivery would be impractical, would not be cost effective, or would not be in the best long-term interest of the Postal Service.

(5) *WAIVER FOR PHYSICAL HARDSHIP.*—

(A) *IN GENERAL.*—The Postal Service shall establish and maintain a waiver program under which, upon the application of a postal customer, door delivery may be continued or provided to a delivery point if—

(i) centralized delivery or curbside delivery would, but for this paragraph, be the primary mode of mail delivery for the delivery point; and

(ii) a physical hardship prevents the postal customer from receiving his or her mail through any other form of mail delivery.

(B) *PUBLICITY; SIMPLICITY.*—In establishing and maintaining the waiver program under subparagraph (A), the Postal Service shall—

- (i) publicize the waiver program; and
- (ii) provide a simple application process for participation in the waiver program.

(C) *POSTAL SERVICE DISCRETION.*—Nothing in this paragraph shall be construed to—

- (i) prohibit the Postal Service from requiring evidence of a physical hardship in an appropriate case; or
- (ii) require the Postal Service to require evidence of a physical hardship in any case.

(D) *NO FEES FOR APPLICATION OR DOOR DELIVERY.*—In establishing and maintaining the waiver program under subparagraph (A), the Postal Service may not charge a postal customer any fee to—

- (i) apply for a waiver; or
- (ii) upon the granting of a waiver by the Postal Service, receive mail through door delivery.

\* \* \* \* \*

## TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

\* \* \* \* \*

### Subtitle I—Federal Property and Administrative Services

\* \* \* \* \*

#### CHAPTER 5—PROPERTY MANAGEMENT <sup>108</sup>

\* \* \* \* \*

Sec.

501. Services for executive agencies.

\* \* \* \* \*

#### SUBCHAPTER VII—PROPERTY MANAGEMENT AND EXPEDITED DISPOSAL OF REAL PROPERTY

621. *Definitions.*

622. *Duties of Federal agencies.*

623. *Colocation among United States Postal Service properties.*

624. *Establishment of a Federal Real Property Council.*

625. *Federal real property inventory and database.*

626. *Limitation on certain leasing authorities.*

627. *Expedited disposal pilot program.*

628. *Homeless assistance grants.*

\* \* \* \* \*

#### ***Subchapter VII—Property Management and Expedited Disposal of Real Property***

##### **621. Definitions**

*In this subchapter:*

- (1) *ADMINISTRATOR.*—The term “Administrator” means the Administrator of General Services.

<sup>108</sup>These amendments to 40 U.S.C. chapter 5 are made by section 603 of the bill.

(2) *COUNCIL.*—The term “Council” means the Federal Real Property Council established by section 624(a).

(3) *DIRECTOR.*—The term “Director” means the Director of the Office of Management and Budget.

(4) *DISPOSAL.*—The term “disposal” means any action that constitutes the removal of any real property from the Federal inventory, including sale, deed, demolition, or exchange.

(5) *EXCESS PROPERTY.*—The term “excess property” means any real property under the control of a Federal agency that the head of the Federal agency determines is not required to meet the needs or responsibilities of the Federal agency.

(6) *FEDERAL AGENCY.*—The term “Federal agency” means—

(A) an executive department or independent establishment in the executive branch of the Government; or

(B) a wholly owned Government corporation.

(7) *FIELD OFFICE.*—The term “field office” means any office of a Federal agency that is not the headquarters office location for the Federal agency.

(8) *POSTAL PROPERTY.*—The term “postal property” means any building owned by the United States Postal Service.

(9) *SURPLUS PROPERTY.*—

(A) *IN GENERAL.*—The term “surplus property” means excess real property that is not required to meet the needs or responsibilities of any Federal agency.

(B) *EXCLUSIONS.*—The term “surplus property” does not include—

(i) any military installation (as defined in section 2910 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note; Public Law 101—510));

(ii) any property that is excepted from the definition of the term “property” under section 102;

(iii) Indian and native Eskimo property held in trust by the Federal Government as described in section 3301(a)(5)(C)(iii);

(iv) real property operated and maintained by the Tennessee Valley Authority pursuant to the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.);

(v) any real property the Director excludes for reasons of national security;

(vi) any public lands (as defined in section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722)) administered by—

(I) the Secretary of the Interior, acting through—

(aa) the Director of the Bureau of Land Management;

(bb) the Director of the National Park Service;

(cc) the Commissioner of Reclamation; or

(dd) the Director of the United States Fish and Wildlife Service; or

(II) the Secretary of Agriculture, acting through the Chief of the Forest Service; or

(vii) any property operated and maintained by the United States Postal Service.

(10) *UNDERUTILIZED PROPERTY.*—The term “underutilized property” means a portion or the entirety of any real property, including any improvements, that is used—

(A) irregularly or intermittently by the accountable Federal agency for program purposes of the Federal agency; or

(B) for program purposes that can be satisfied with only a portion of the property.

## **622. Duties of Federal agencies**

*Each Federal agency shall—*

(1) *maintain adequate inventory controls and accountability systems for real property under the control of the Federal agency;*

(2) *develop current and future workforce projections so as to have the capacity to assess the needs of the Federal workforce regarding the use of real property;*

(3) *continuously survey real property under the control of the Federal agency to identify excess property, underutilized property, and other real property suitable to be used for—*

(A) *colocation with other Federal agencies; or*

(B) *consolidation with other facilities;*

(4) *promptly report excess property and underutilized property to the Administrator;*

(5) *establish goals that will lead the Federal agency to reduce excess property and underutilized property in the inventory of the Federal agency;*

(6) *submit to the Council a report on all excess property and underutilized property in the inventory of the Federal agency, including—*

(A) *whether underutilized property can be better utilized; and*

(B) *the extent to which the Federal agency believes that the underutilized property serves the needs of the Federal agency to retain underutilized property;*

(7) *adopt workplace practices, configurations, and management techniques that can achieve increased levels of productivity and decrease the need for real property assets;*

(8) *assess leased space to identify space that is not fully used or occupied;*

(9) *on an annual basis and subject to the guidance of the Council—*

(A) *conduct an inventory of real property under control of the Federal agency; and*

(B) *make an assessment of each real property, which shall include—*

(i) *the age and condition of the property;*

(ii) *the size of the property in square footage and acreage;*

(iii) *the geographical location of the property, including an address and description;*

(iv) *the extent to which the property is being utilized;*

(v) *the actual annual operating costs associated with the property;*

- (vi) the total cost of capital expenditures associated with the property;
  - (vii) sustainability metrics associated with the property;
  - (viii) the number of Federal employees and functions housed at the property;
  - (ix) the extent to which the mission of the Federal agency is dependent on the property;
  - (x) the estimated amount of capital expenditures projected to maintain and operate the property over each of the next 5 years after the date of enactment of this subchapter; and
  - (xi) any additional information required by the Administrator to carry out section 625; and
- (10) provide to the Council and the Administrator the information described in paragraph (9)(B) to be used for the establishment and maintenance of the database described in section 625.

**623. Colocation among United States Postal Service properties**

- (a) IDENTIFICATION OF POSTAL PROPERTY.—Each year, the Postmaster General may—
- (1) identify a list of postal properties with space available for use by Federal agencies; and
  - (2) submit the list to the Council.
- (b) SUBMISSION OF LIST OF POSTAL PROPERTIES TO FEDERAL AGENCIES.—
- (1) IN GENERAL.—Not later than 30 days after the completion of a list under subsection (a), the Council shall provide the list to each Federal agency.
  - (2) REVIEW BY FEDERAL AGENCIES.—Not later than 90 days after the receipt of the list submitted under paragraph (1), each Federal agency shall—
    - (A) review the list;
    - (B) identify real property assets under the control of the Federal agency; and
    - (C) recommend colocations if appropriate.
- (c) TERMS OF COLOCATION.—On approval of the recommendations under subsection (b) by the Postmaster General and the applicable agency head, the Federal agency or appropriate landholding entity may work with the Postmaster General to establish appropriate terms of a lease for each postal property.

**624. Establishment of a Federal Real Property Council**

- (a) ESTABLISHMENT.—There is established a Federal Real Property Council.
- (b) PURPOSE.—The purpose of the Council shall be to—
- (1) develop guidance and ensure implementation of an efficient and effective real property management strategy;
  - (2) identify opportunities for the Federal Government to better manage real property assets; and
  - (3) reduce the costs of managing real property, including operations, maintenance, and security.

(c) *COMPOSITION.*—

(1) *IN GENERAL.*—*The Council shall be composed exclusively of—*

(A) *the senior real property officers of each Federal agency;*

(B) *the Deputy Director for Management of the Office of Management and Budget;*

(C) *the Controller of the Office of Management and Budget;*

(D) *the Administrator; and*

(E) *any other full-time or permanent part-time Federal officials or employees, as the Chairperson determines to be necessary.*

(2) *CHAIRPERSON.*—*The Deputy Director for Management of the Office of Management and Budget shall serve as Chairperson of the Council.*

(3) *EXECUTIVE DIRECTOR.*—

(A) *IN GENERAL.*—*The Chairperson shall designate an Executive Director to assist in carrying out the duties of the Council.*

(B) *QUALIFICATIONS; FULL-TIME.*—*The Executive Director shall—*

(i) *be appointed from among individuals who have substantial experience in the areas of commercial real estate and development, real property management, and Federal operations and management; and*

(ii) *serve full time.*

(d) *MEETINGS.*—

(1) *IN GENERAL.*—*The Council shall meet subject to the call of the Chairperson.*

(2) *MINIMUM.*—*The Council shall meet not fewer than 4 times each year.*

(e) *DUTIES.*—*The Council, in consultation with the Director and the Administrator, shall—*

(1) *not later than 1 year after the date of enactment of this subchapter, establish a real property management plan template, to be updated annually, which shall include performance measures, specific milestones, measurable savings, strategies, and Government-wide goals based on the goals established under section 622(5) to reduce surplus property or to achieve better utilization of underutilized property, and evaluation criteria to determine the effectiveness of real property management that are designed to—*

(A) *enable Congress and heads of Federal agencies to track progress in the achievement of real property management objectives on a Government-wide basis;*

(B) *improve the management of real property; and*

(C) *allow for comparison of the performance of Federal agencies against industry and other public sector agencies in terms of performance;*

(2) *develop standard use rates consistent throughout each category of space and with nongovernmental space use rates;*



(3) *develop a strategy to reduce the reliance of Federal agencies on leased space for long-term needs if ownership would be less costly;*

(4) *provide guidance on eliminating inefficiencies in the Federal leasing process;*

(5) *compile a list of real property assets that are field offices that are suitable for colocation with other real property assets; and*

(6) *not later than 1 year after the date of enactment of this subchapter and annually during the 4-year period beginning on the date that is 1 year after the date of enactment of this subchapter and ending on the date that is 5 years after the date of enactment of this subchapter, the Council shall submit to the Director a report that contains—*

(A) *a list of the remaining excess, surplus, and underutilized properties of each Federal agency;*

(B) *the progress of the Council toward developing guidance for Federal agencies to ensure that the assessment required under section 622(9)(B) is carried out in a uniform manner; and*

(C) *the progress of Federal agencies toward achieving the goals established under section 622(5).*

(f) **CONSULTATION.**—*In carrying out the duties described in subsection (e), the Council shall also consult with representatives of—*

(1) *State, local, tribal authorities, and affected communities; and*

(2) *appropriate private sector entities and nongovernmental organizations that have expertise in areas of—*

(A) *commercial real estate and development;*

(B) *government management and operations;*

(C) *space planning;*

(D) *community development, including transportation and planning; and*

(E) *historic preservation.*

(g) **COUNCIL RESOURCES.**—*The Director and the Administrator shall provide staffing, and administrative support for the Council, as appropriate.*

## **625. Federal real property inventory and database**

(a) **IN GENERAL.**—*Not later than 1 year after the date of enactment of this subchapter, the Administrator shall establish and maintain a single, comprehensive, and descriptive database of all real property under the custody and control of all Federal agencies.*

(b) **CONTENTS.**—*The database shall include—*

(1) *information provided to the Administrator under section 622(10); and*

(2) *a list of real property disposals completed, including—*

(A) *the date and disposal method used for each real property;*

(B) *the proceeds obtained from the disposal of each real property;*

(C) *the amount of time required to dispose of the real property, including the date on which the real property is designated as excess property;*

(D) the date on which the property is designated as surplus property and the date on which the property is disposed; and

(E) all costs associated with the disposal.

(c) **ACCESSIBILITY.**—

(1) **COMMITTEES.**—The database established under subsection (a) shall be made available on request to the Committee on Homeland Security and Governmental Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Oversight and Government Reform and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) **GENERAL PUBLIC.**—Not later than 3 years after the date of enactment of this subchapter and to the extent consistent with national security, the Administrator shall make the database established under subsection (a) accessible to the public at no cost through the website of the General Services Administration.

**626. Limitation on certain leasing authorities**

(a) **IN GENERAL.**—Except as provided in subsection (b), not later than December 31 of each year following the date of enactment of this subchapter, a Federal agency with independent leasing authority shall submit to the Council a list of all leases, including operating leases, in effect on the date of enactment of this subchapter that includes—

- (1) the date on which each lease was executed;
- (2) the date on which each lease will expire;
- (3) a description of the size of the space;
- (4) the location of the property;
- (5) the tenant agency;
- (6) the total annual rental rate; and
- (7) the amount of the net present value of the total estimated legal obligations of the Federal Government over the life of the contract.

(b) **EXCEPTION.**—Subsection (a) shall not apply to—

- (1) the United States Postal Service;
- (2) the Department of Veterans Affairs; or
- (3) any other property the President excludes from subsection (a) for reasons of national security.

**627. Expedited disposal pilot program**

(a) **ESTABLISHMENT.**—The Director shall establish a pilot program for disposal of any surplus property by sale, transfer, or other means.

(1) **PROPERTIES FOR EXPEDITED DISPOSAL.**—

(A) **IN GENERAL.**—On an annual basis, the Director may authorize the expedited disposal of not more than 200 surplus properties.

(B) **PRIORITY.**—In determining which properties to dispose of, the Director shall give priority to surplus properties that have the highest fair market value and the greatest potential for disposal.

(C) **COSTS ASSOCIATED WITH DISPOSAL.**—

(i) *IN GENERAL.*—The Administrator may obligate an amount to pay any direct and indirect costs under section 572 related to identifying and preparing properties to be reported as excess property by a Federal agency.

(ii) *REIMBURSEMENT.*—An amount obligated under clause (i) shall be paid from the proceeds of any sale of real property under this subsection.

(iii) *NET PROCEEDS.*—Net proceeds shall be distributed under subsection (b).

(D) *MAXIMUM NET PROCEEDS.*—Any real property authorized for disposal by sale under subparagraph (A) shall be disposed of in a manner that, as determined by the Administrator in consultation with the head of the applicable Federal agency, is structured and marketed to maximize the value to the Federal Government.

(E) *MONETARY PROCEEDS REQUIREMENT.*—Surplus property may be disposed of under this section only if disposal of the property will generate monetary proceeds to the Federal Government that—

(i) exceed the costs of disposal of the property; and

(ii) are not less than 90 percent of fair market value.

(F) *LOCAL GOVERNMENT NOTIFICATION.*—

(i) *NOTIFICATION.*—Not later than 30 days after the date on which the Director makes the authorization under subparagraph (A), the Director shall submit in writing to the appropriate local government unit in which the property is located a notification that includes a list of each applicable property authorized to be disposed of under subparagraph (A).

(ii) *REMOVAL FROM PILOT PROGRAM.*—

(I) *IN GENERAL.*—The Director, at the discretion of the Director, may remove a property for which notification has been provided under clause (i) from the pilot program established under subparagraph (A).

(II) *REPLACEMENT.*—For each property removed from the pilot program under subclause (I), the Director may authorize the expedited disposal of 1 property not originally authorized under subparagraph (A).

(2) *APPLICABILITY OF CERTAIN LAW.*—Any expedited disposal of real property conducted under this section shall not be subject to—

(A) any section of An Act Authorizing the Transfer of Certain Real Property for Wildlife, or Other Purposes (16 U.S.C. 667b);

(B) sections 107 and 317 of title 23;

(C) sections 545(b)(8), 550, 553, 554, and 1304(b) of this title;

(D) section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);

(E) section 47151 of title 49; or

(F) section 13(d) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(d)).

(3) *EFFECT.*—*Except as provided in paragraph (2), nothing in this subchapter terminates or in any way limits the authority of any Federal agency under any other provision of law to dispose of real property.*

(b) *USE OF PROCEEDS.*—

(1) *IN GENERAL.*—*Of the proceeds received from the disposal of any real property under this subchapter—*

(A) *not less than 80 percent shall be returned to the general fund of the Treasury for debt reduction;*

(B) *the lesser of 18 percent or the share of proceeds otherwise authorized to be retained under law shall be retained by the Federal agency that has custody and is accountable for the real property, subject to paragraph (2);*

(C) *not greater than 2 percent shall be made available to carry out section 628, subject to annual appropriations; and*

(D) *any remaining share of the proceeds shall be returned to the general fund of the Treasury for Federal budget deficit reduction.*

(2) *LIMITATION ON USE OF PROCEEDS.*—*Any proceeds retained by Federal agencies under this section shall be—*

(A) *deposited into the appropriate real property account of the Federal agency that had custody and accountability for the real property, with the funds expended only as authorized in annual appropriations Acts;*

(B) *used—*

(i) *by not later than 2 years after the date of disposal of the real property; and*

(ii) *only for activities relating to Federal real property asset management and disposal; and*

(C) *if not used by the date described in subparagraph (B)(i), shall be deposited in the Treasury and used for Federal budget deficit reduction.*

(c) *PUBLIC BENEFIT.*—

(1) *CONVEYANCE.*—*Except as provided in paragraph (2), if a real property authorized to be disposed of under subsection (a) has not been disposed of by the date that is 2 years after the date the property is listed for sale, the Director, in consultation with the Administrator and the Secretary of Housing and Urban Development, may consider a request from the disposing Federal agency that the real property be conveyed to State and local governments or nonprofit organizations for various public purposes or uses as permitted by applicable law.*

(2) *PREDOMINANT USE AND SIZE STANDARDS.*—

(A) *IN GENERAL.*—*Any real property authorized to be disposed of under subsection (a) shall not be conveyed under paragraph (1) if—*

(i) *the predominant use of the property is not for housing; and*

(ii) (I) *the area of the property is not less than 25,000 square feet; or*

(II) *the appraised fair market value of the property is greater than \$1,000,000.*

(B) APPRAISED FAIR MARKET VALUE.—*The appraised fair market value described in subparagraph (A)(ii)(II) shall be determined by the Federal agency with custody or control of the property, in consultation with the Administrator and standard appraisal practice.*

(d) ENFORCEMENT.—

(1) INCREASE IN SIZE OF INVENTORY.—*Except as provided in paragraph (2), if a Federal agency fails to make available for public sale the real property authorized for disposal under subsection (a) by the date that is 18 months after the date on which the authorization is made, that Federal agency, except for specific exceptions promulgated by the Director, shall not increase the size of the civilian real property inventory, unless the square footage of the increase is offset, within an appropriate time as determined by the Director, through consolidation, colocation, or disposal of another building space from the inventory of that Federal agency.*

(2) EXCEPTION.—*Paragraph (1) shall not apply to a Federal agency that acquires any real property not under the administrative jurisdiction of the Federal Government, by sale or lease, until the Director submits a certification to Congress of the disposal of all of those surplus properties.*

(e) TERMINATION OF AUTHORITY.—*The authority provided by this section terminates on the date that is 5 years after the date of enactment of this subchapter.*

## **628. Homeless assistance grants**

(a) DEFINITIONS.—*In this section:*

(1) ELIGIBLE NONPROFIT ORGANIZATION.—*The term “eligible nonprofit organization” means a nonprofit organization that is a representative of the homeless.*

(2) HOMELESS.—*The term “homeless” has the meaning given the term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), except that subsection (c) of that section shall not apply.*

(3) PERMANENT HOUSING.—*The term “permanent housing” has the meaning given the term in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).*

(4) PRIVATE NONPROFIT ORGANIZATION.—*The term “private nonprofit organization” has the meaning given the term in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).*

(5) REPRESENTATIVE OF THE HOMELESS.—*The term “representative of the homeless” has the meaning given the term in section 501(i) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)).*

(6) SECRETARY.—*The term “Secretary” means the Secretary of Housing and Urban Development.*

(7) TRANSITIONAL HOUSING.—*The term “transitional housing” has the meaning given the term in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).*

(b) GRANT AUTHORITY.—

(1) IN GENERAL.—*To the extent amounts are made available under section 627(b)(1)(C) for use under this section, the Sec-*

retary shall make grants to eligible private nonprofit organizations through the continuum of care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et se.), to purchase real property suitable for use to assist the homeless in accordance with subsection (c).

(2) *TERMS AND CONDITIONS.*—Except as otherwise provided in this section, a grant under this section shall be subject to the same terms and conditions as a grant under the continuum of care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et se.).

(c) *USE OF PROPERTIES FOR HOUSING OR SHELTER FOR THE HOMELESS.*—

(1) *ELIGIBLE USES.*—An eligible private nonprofit organization that receives a grant under subsection (b) shall use the amounts received only to purchase or rehabilitate real property to provide permanent housing, transitional housing, or temporary shelter to the homeless.

(2) *TERM OF USE.*—The Secretary may not make a grant under subsection (b) to an eligible private nonprofit organization unless the eligible private nonprofit organization provides to the Secretary such assurances as the Secretary determines necessary to ensure that any real property purchased or rehabilitated using amounts received under the grant is used only for the purposes described in paragraph (1) for a period of not less than 15 years.

(d) *PREFERENCE.*—In awarding grants under subsection (b), the Secretary shall give preference to eligible private nonprofit organizations that operate within areas in which Federal real property is being sold under the disposal program authorized under section 627.

(e) *REGULATIONS.*—The Secretary may promulgate such regulations as are necessary to carry out this section.

\* \* \* \* \*

## **TITLE 42—THE PUBLIC HEALTH AND WELFARE**

\* \* \* \* \*

### **CHAPTER 7—SOCIAL SECURITY**

\* \* \* \* \*

#### **Subchapter XVIII—Health Insurance for Aged and Disabled**

\* \* \* \* \*

**PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR AGED AND DISABLED** <sup>109</sup>

\* \* \* \* \*

**§ 1395p. Enrollment periods**

(a) \* \* \*

\* \* \* \* \*

*(m)(1)(A) In the case of any individual who is subject to the enrollment requirement of section 8903c(e) of title 5, United States Code, who has elected not to enroll (or to be deemed enrolled) during the individual's initial enrollment period, there shall be a special enrollment period described in subparagraph (B).*

*(B) The special enrollment period described in this subparagraph is the 6-month period, beginning on August 1, 2015 and ending on January 31, 2016.*

*(2)(A) In the case of any individual who—*

*(i) was initially not subject to the enrollment requirement of section 8903c(e) of title 5, United States Code;*

*(ii) is eligible to enroll in a plan under chapter 89 of title 5, United States Code, because of an involuntary loss of health care coverage;*

*(iii) upon the involuntary loss of health care coverage, becomes subject to the enrollment requirement of section 8903c(e) of title 5, United States Code, because of enrollment in a PSHBP plan; and*

*(iv) has elected not to enroll (or to be deemed enrolled) during the individual's initial enrollment period, there shall be a special enrollment period described in subparagraph (B).*

*(B) The special enrollment period described in this subparagraph is the period of time equivalent to the period of time in which the individual has the ability to enroll in a PSHBP plan due to the involuntary loss of health care coverage, pursuant to chapter 89 of title 5, United States Code, and its implementing regulations.*

*(C) For purposes of this subsection, the term "PSHBP plan" has the meaning under section 8903c(a) of title 5, United States Code.*

*(3) In the case of an individual who enrolls during the special enrollment period provided under paragraphs (1) and (2), the coverage period under this part shall begin on the first day of the month in which the individual enrolls.*

\* \* \* \* \*

**§ 1395r. Amount of premiums for individuals enrolled under this part**

(a) \* \* \*

\* \* \* \* \*

(b) INCREASE IN MONTHLY PREMIUM—

In the case of an individual whose coverage period began pursuant to an enrollment after his initial enrollment period (determined pursuant to subsection (c) or (d) of section 1395p of this title) and

<sup>109</sup> These amendments to the Social Security Act are made by section 104(b) of the bill.

not pursuant to a special enrollment period under subsection [(i)(4) or (l)] (i)(4), (l), or (m) of section 1395p of this title, the monthly premium determined under subsection (a) of this section (without regard to any adjustment under subsection (i) of this section) shall be increased by 10 percent of the monthly premium so determined for each full 12 months (in the same continuous period of eligibility) in which he could have been but was not enrolled. For purposes of the preceding sentence, there shall be taken into account (1) the months which elapsed between the close of his initial enrollment period and the close of the enrollment period in which he enrolled, plus (in the case of an individual who reenrolls) (2) the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which he reenrolled, but there shall not be taken into account months for which the individual can demonstrate that the individual was enrolled in a group health plan described in section 1395y(b)(1)(A)(v) of this title by reason of the individual's (or the individual's spouse's) current employment status or months during which the individual has not attained the age of 65 and for which the individual can demonstrate that the individual was enrolled in a large group health plan (as that term is defined in section 1395y(b)(1)(B)(iii) of this title) by reason of the individual's current employment status (or the current employment status of a family member of the individual) or months for which the individual can demonstrate that the individual was an individual described in section 1395p(k)(3) of this title. Any increase in an individual's monthly premium under the first sentence of this subsection with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which such individual may have. No increase in the premium shall be effected for a month in the case of an individual who enrolls under this part during 2001, 2002, 2003, or 2004 and who demonstrates to the Secretary before December 31, 2004, that the individual is a covered beneficiary (as defined in section 1072(5) of title 10). The Secretary of Health and Human Services shall consult with the Secretary of Defense in identifying individuals described in the previous sentence.

\* \* \* \* \*



**APPENDIX A:**

**POSTAL SERVICE FINANCIAL PROJECTIONS**

Chart 1 - USPS 10-Year Budget Outlook with Enactment of S. 1486,  
including Permanent Exigent Price Increase, and  
including Transition to 5-day Mail Delivery beginning FY 2019

Chart 2 – USPS 10-Year Budget Outlook with Passage of S. 1486,  
except Rollback of Exigent Price Increase in FY16

Chart 3 – USPS 10-Year Budget Outlook with Passage of S. 1486,  
except Rollback of Exigent Price Increase in FY16, and  
except Transition to 5-day Mail Delivery beginning FY 2016

Letter from Joseph Corbett, Chief Financial Officer and Executive Vice President, United States Postal Service, to Hon. Thomas R. Carper, Chairman, Senate Committee on Homeland Security and Governmental Affairs, dated July 28, 2014.

Enclosure: Memorandum to Postal Management, from PRM Consulting Group, entitled “PSRHBFB – Reconciliation of CBO Scoring to USPS Estimates,” dated July 25, 2014.

## CHART 1

USPS 10-Year Outlook - May 2014														
S. 1486 as Approved by Committee														
Exigent Price Increase is Permanent - FY 14 and CPI Price Increase Beginning FY 2015														
(5-Day Implemented 1 year after 140b pieces + Worker Comp Prefunding)														
Volume (b)	158	154	151	145	141	137	134	133	132	129	125			
(\$ in billions)	Actual	Projected												
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total		
Total Revenue	\$ 66.0	\$ 67.9	\$ 68.7	\$ 68.4	\$ 68.8	\$ 68.3	\$ 69.4	\$ 70.7	\$ 71.9	\$ 72.6	\$ 73.0	\$ 765.5		
Operating Expenses (Including Initiatives)	67.0	66.8	67.0	67.8	71.0	73.3	74.8	76.6	77.8	78.7	79.0	799.7		
Operating Income (Including Initiatives)	(1.0)	1.1	1.7	0.6	(2.2)	(5.0)	(5.4)	(5.9)	(6.0)	(6.1)	(5.9)	(34.2)		
RHB Pre-Funding	(5.6)	(5.7)	(5.7)	(5.8)	-	-	-	-	-	-	-	(22.8)		
Non-Cash Adjustments	1.6											1.6		
Net Income/(Loss) (Including Initiatives) <sup>(1)</sup>	(5.0)	(4.6)	(4.0)	(5.2)	(2.2)	(5.0)	(5.4)	(5.9)	(6.0)	(6.1)	(5.9)	(55.4)		
Legislative Initiatives (\$ 1486 + Medicare Integration - Without 5-Day)	-	13.8	5.4	7.0	5.2	3.2	5.4	4.7	5.4	5.4	5.3	60.8		
5-Day Delivery (net of Saturday Pkgs)	-	-	-	-	-	-	1.9	1.9	1.9	1.9	1.9	9.5		
Total Contribution - Add'l Strategic Initiatives	-	13.8	5.4	7.0	5.2	3.2	7.3	6.6	7.3	7.3	7.2	70.3		
Revised Operating Expenses <sup>(1)</sup>	71.0	58.7	67.3	66.5	65.8	70.1	67.5	70.0	70.5	71.4	71.8	750.7		
Updated Net Income / (Loss) <sup>(1)</sup>	\$ (5.0)	\$ 9.2	\$ 1.4	\$ 1.8	\$ 3.0	\$ (1.8)	\$ 1.9	\$ 0.7	\$ 1.3	\$ 1.2	\$ 1.2	\$ 14.8		
Capital Outlays <sup>(2)</sup>	\$ (0.7)	\$ (1.0)	\$ (2.1)	\$ (3.1)	\$ (4.9)	\$ (4.5)	\$ (2.9)	\$ (2.8)	\$ (2.9)	\$ (2.8)	\$ (2.8)	\$ (30.6)		
Depreciation & Other Non-Cash Adjustments	\$ 0.5	\$ 2.0	\$ 2.2	\$ 2.3	\$ 2.6	\$ 2.9	\$ 3.2	\$ 3.4	\$ 3.6	\$ 3.8	\$ 3.9	\$ 30.4		
Net (Debt) / Cash <sup>(3)</sup>	\$ (12.7)	\$ (2.4)	\$ (1.0)	\$ 0.0	\$ 0.8	\$ (2.6)	\$ (0.5)	\$ 0.7	\$ 2.7	\$ 4.8	\$ 7.1	\$ 7.1		

(1) Excludes noncash workers' compensation expense 2014 - 2023

(2) Vehicle replacement, costing approximately \$7.0 billion, 2016 - 2018.

(3) 2023 Cash of \$7.1 billion equals approximately 27 days of operating cash.

## CHART 2

USPS 10-Year Outlook - May 2014													
S. 1486 with Exigent Rollback October 1, 2015 (FY16)													
Exigent Price Increase - FY 14 & FY15 ONLY and CPI Price Increase Beginning FY 2015													
Volume (b)	158	154	151	145	141	137	134	133	132	129	125		
(\$ in billions)	Actual	Projected											
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total	
Revenue <sup>(3)</sup>	\$ 66.0	\$ 67.9	\$ 68.7	\$ 66.5	\$ 66.9	\$ 66.5	\$ 67.6	\$ 68.9	\$ 70.1	\$ 70.9	\$ 71.4	\$ 751.4	
Operating Expenses (Including Initiatives)	67.0	66.8	67.0	67.8	71.0	73.3	74.8	76.6	77.8	78.7	79.0	799.7	
Operating Income (Including Initiatives)	(1.0)	1.1	1.7	(1.3)	(4.1)	(6.8)	(7.2)	(7.7)	(7.7)	(7.8)	(7.6)	(48.4)	
RHB Pre-Funding	(5.6)	(5.7)	(5.7)	(5.8)	-	-	-	-	-	-	-	(22.8)	
Non-Cash Adjustments	1.6	-	-	-	-	-	-	-	-	-	-	1.6	
Net Income/(Loss) (Including Initiatives) <sup>(1)</sup>	(5.0)	(4.6)	(4.0)	(7.1)	(4.1)	(6.8)	(7.2)	(7.7)	(7.7)	(7.8)	(7.6)	(69.6)	
Legislative Initiatives (S.1486 + Medicare Integration - Without 5-Day)	-	13.8	5.4	7.0	5.2	5.1	5.3	5.4	5.6	5.7	5.7	64.2	
5-Day Delivery (net of Saturday Pkgs)	-	-	-	-	-	-	1.9	1.9	1.9	1.9	1.9	9.5	
Total Contribution - Add'l Strategic Initiatives	-	13.8	5.4	7.0	5.2	5.1	7.2	7.3	7.5	7.6	7.6	73.7	
Revised Operating Expenses <sup>(1)</sup>	71.0	58.7	67.3	66.5	65.8	66.2	67.6	69.3	70.3	71.1	71.4	747.3	
Updated Net Income / (Loss) <sup>(1)</sup>	\$ (5.0)	\$ 9.2	\$ 1.4	\$ (0.0)	\$ 1.1	\$ (1.7)	\$ (0.0)	\$ (0.4)	\$ (0.2)	\$ (0.2)	\$ (0.0)	\$ 4.1	
Capital Outlays <sup>(2)</sup>	\$ (0.7)	\$ (1.0)	\$ (2.1)	\$ (3.1)	\$ (4.9)	\$ (4.5)	\$ (2.9)	\$ (2.8)	\$ (2.9)	\$ (2.8)	\$ (2.8)	\$ (30.6)	
Depreciation & Other Non-Cash Adjustments	\$ 0.5	\$ 2.0	\$ 2.2	\$ 2.3	\$ 2.6	\$ 2.9	\$ 3.2	\$ 3.4	\$ 3.6	\$ 3.8	\$ 3.9	\$ 30.4	
Interest on Debt												\$ (1.2)	
Net (Debt) / Surplus <sup>4</sup>	\$ (12.7)	\$ (2.4)	\$ (1.0)	\$ (1.8)	\$ (3.0)	\$ (6.3)	\$ (6.0)	\$ (5.8)	\$ (5.4)	\$ (4.6)	\$ (3.6)	\$ (4.8)	

(1) Excludes noncash workers' compensation expense 2014 - 2023

(2) Vehicle replacement, costing approximately \$7.0 billion, 2016 - 2018.

(3) Exigent Surcharge Revenue in FY14 &amp; FY15 Only

(4) Available Liquidity of \$7.2b (remaining borrowing capacity) in FY2023

## CHART 3

USPS 10-Year Outlook - May 2014														
S. 1486 with Exigent Rollback October 1, 2015 (FY16) 5-Day Mail / 6-Day Packages Beginning FY 2016														
Exigent Price Increase - FY 14 & FY15 ONLY and CPI Price Increase Beginning FY 2015														
Volume (b)	158	154	151	145	141	137	134	133	132	129	125			
	Actual		Projected											
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total		
Revenue <sup>(3)</sup>	\$ 66.0	\$ 67.9	\$ 68.7	\$ 66.5	\$ 66.9	\$ 66.5	\$ 67.6	\$ 68.9	\$ 70.1	\$ 70.9	\$ 71.4	\$ 751.4		
Operating Expenses (Including Initiatives)	67.0	66.8	67.0	67.8	71.0	73.3	74.8	76.6	77.8	78.7	79.0	799.7		
Operating Income (Including Initiatives)	(1.0)	1.1	1.7	(1.3)	(4.1)	(6.8)	(7.2)	(7.7)	(7.7)	(7.8)	(7.6)	(48.4)		
RHB Pre-Funding	(5.6)	(5.7)	(5.7)	(5.8)	-	-	-	-	-	-	-	(22.8)		
Non-Cash Adjustments	1.6	-	-	-	-	-	-	-	-	-	-	1.6		
Net Income/(Loss) (Including Initiatives) <sup>(1)</sup>	(5.0)	(4.6)	(4.0)	(7.1)	(4.1)	(6.8)	(7.2)	(7.7)	(7.7)	(7.8)	(7.6)	(69.6)		
Legislative Initiatives (S.1486 + Medicare Integration - Without 5-Day)	-	13.8	5.4	7.0	5.2	3.2	5.4	5.5	5.7	5.8	5.8	62.8		
5-Day Delivery (net of Saturday Pkgs)	-	-	-	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9	15.2		
Total Contribution - Add'l Strategic Initiatives	-	13.8	5.4	8.9	7.1	5.1	7.3	7.4	7.6	7.7	7.7	78.0		
Revised Operating Expenses <sup>(1)</sup>	71.0	68.7	67.3	64.6	63.9	68.2	67.5	69.2	70.2	71.0	71.3	743.0		
Updated Net Income / (Loss) <sup>(1)</sup>	\$ (5.0)	\$ 9.2	\$ 1.4	\$ 1.9	\$ 3.0	\$ (1.7)	\$ 0.1	\$ (0.3)	\$ (0.1)	\$ (0.1)	\$ 0.1	\$ 8.4		
Capital Outlays <sup>(2)</sup>	\$ (0.7)	\$ (1.0)	\$ (2.1)	\$ (3.1)	\$ (4.9)	\$ (4.5)	\$ (2.9)	\$ (2.8)	\$ (2.9)	\$ (2.8)	\$ (2.8)	\$ (30.6)		
Depreciation & Other Non-Cash Adjustments	\$ 0.5	\$ 2.0	\$ 2.2	\$ 2.3	\$ 2.6	\$ 2.9	\$ 3.2	\$ 3.4	\$ 3.6	\$ 3.8	\$ 3.9	\$ 30.4		
Interest on Debt												\$ (0.3)		
Net (Debt) / Surplus <sup>4</sup>	\$ (12.7)	\$ (2.4)	\$ (1.0)	\$ 0.1	\$ 0.8	\$ (2.5)	\$ (2.1)	\$ (1.8)	\$ (1.3)	\$ (0.4)	\$ 0.7	\$ 0.4		

<sup>(1)</sup> Excludes noncash workers' compensation expense 2014 - 2023

<sup>(2)</sup> Vehicle replacement, costing approximately \$7.0 billion, 2016 - 2018.

<sup>(3)</sup> Exigent Surcharge Revenue in FY14 & FY15 Only

<sup>(4)</sup> Available Liquidity of \$7.2b (remaining borrowing capacity) in FY2023

JOSEPH CORBETT  
CHIEF FINANCIAL OFFICER  
EXECUTIVE VICE PRESIDENT



July 28, 2014

The Honorable Thomas R. Carper  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510-0803

Dear Chairman Carper:

On July 14 the Congressional Budget Office released its cost estimate of the postal reform bill, S. 1486. The cost estimate projected off-budget savings of approximately \$36 billion and on-budget costs of approximately \$19 billion for a net savings of \$17 billion over ten years. While the estimate considered the bill as a whole, its treatment of the budgetary effects of the bill's Medicare integration provision was particularly significant.

The Committee has asked for the Postal Service's analysis of CBO's estimate. Attached is a memorandum prepared by the Postal Service's health care and actuarial consultants that details their findings.

In view of these findings, we believe that our analysis of the cost savings associated with the Medicare integration provision of S. 1486 is accurate and correct, and is based upon the appropriate actuarial analysis.

Sincerely,

Joseph Corbett

Attachment

cc: Mr. Donahoe  
Mr. Stroman

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## Memorandum

To:	Postal Management		
From:	PRM Consulting Group		
Date:	July 25, 2014	Ref:	
cc:		Enc:	
Subject:	<b>PSRHBF - Reconciliation of CBO Scoring to USPS Estimates</b>		

In comparing the Congressional Budget Office's (CBO) cost estimate of *S. 1486 Postal Reform Act of 2014*, July 14, 2014, to previous analysis of a United States Postal Service (USPS) Health Plan inside the Federal Employees Health Benefit program and the establishment of a new amortization schedule of the unfunded liability of the Postal Service Retiree Health Benefit Fund (PSRHBF), it was noted that there are significant differences in the estimates of the financial impact.

It appears there are three key contributing factors to these differences, summarized as:

- 1) CBO appears to have based its estimate on a larger estimated liability (and therefore a larger unfunded liability) than the USPS estimate. Using CBO's figures and attempting to derive the underlying assumptions, Table A (below) shows the estimate of the 2017 liability to be about \$10 billion more than the amount reported in the April 30, 2014, actuarial valuation report. Though it is not explicitly stated, it is logical to presume that this \$10 billion difference may be due to CBO relying on the Office of Personnel Management's (OPM) accounting disclosure valuation results, instead of the more relevant projected funding requirements.
- 2) CBO appears to have developed their estimate of the amortization payments under S.1486 by amortizing 80 percent of the unfunded liability. S.1486, however, calls for a funding target of 80 percent of the PSRHBF's total liability (see S. 1486, Sec. 103(b)), so the amortization would be based on (Liability x 80%) less Assets. CBO, appears to have used (Liability less Assets) x 80% instead.
- 3) If benefits are fully integrated with Medicare, it is estimated that claim amounts from Medicare-eligible USPS annuitants will decline by 30 percent, because Medicare will be paying for some costs that otherwise would have been a part of this claims pool. CBO, on the other hand, appears to have used only a 2 percent reduction factor. Postal costs

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may be different from the FEHB average when the program is split into Postal/non-Postal risk pool. CBO may have assumed postal costs would be higher. If S.1486 is implemented, however, OPM will be required to follow Actuarial Standards of Practice and develop the retiree healthcare valuation from postal annuitant claims (as they do now for the accounting disclosures).

Descriptions of these three factors are shown below.

#### **CBO Baseline Projection of Current RHBF Unfunded Liability**

CBO's Table 2 (page 5) shows an FY2017 estimated amortization payment of \$3,490 million under current law. Knowing that current law requires a 39-year amortization of the unfunded liability starting in 2017 and that the funding interest rate is 5.25% allows for estimation of the amount of the liability that was the basis of the CBO amortization payment. This, in turn, allows for a projection of PSRHBF assets (shown in Table B). Therefore, CBO appears to have estimated a baseline liability of \$114,508 million. In the April 30, 2014, report the estimated liability under current law will be \$104,389 million in 2017. One explanation for this difference is that CBO projected the valuation results that OPM prepared under SFFAS 5, the accounting standard, which used a discount rate of 4.40%. For funding purposes, the valuation will use the Board of Actuaries approved long-term funding rate which is 5.25%.<sup>1</sup>

Table A – Amounts in \$millions		
Current law, CBO Estimates Surmised		
A. Amortization Payment	3,490	From CBO Table 2
B. Years	39	
C. Rate	5.25%	
D. Factor	16.46	
E. Unfunded Liability	\$57,440	A x D
F. PSRHBF Assets	\$57,068	From table below
G. Liability	\$114,508	E + F

The asset projection was prepared by accruing earnings at 5.25% from the PSRHBF asset value of \$48,947 as of 10/1/2014.

<sup>1</sup> See S. 1486, Sec. 103(b), “(4) Computations under this subsection shall be based on—“(A) economic and actuarial methods and assumptions consistent with the methods and assumptions used in determining the Postal surplus or supplemental liability under section 8348(h)”

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Table B – PSRHBFB Amounts in \$millions				
Asset projection under current law	2014	2015	2016	2017
Beginning of FY	\$48,947	\$51,517	\$54,221	\$57,068
Earnings	5.25%	5.25%	5.25%	
Payments from Fund	-			
End of FY	\$1,517	\$4,221	\$7,068	

Under S.1486, the PSRHBFB assets are projected to be \$7 billion less than current law in 2017 due to payments being made from the fund in FY2015 and FY 2016 to cover employer premiums.

Table C – PSRHBFB Projection Amounts in \$millions				
S.1486				
Asset projection	2014	2015	2016	2017
Beginning of FY	\$48,947	\$51,517	\$50,896	\$50,040
Earnings	5.25%	5.25%	5.25%	5.25%
Payments from Fund	-	\$3,241	\$3,439	
End of FY	\$51,517	\$50,896	\$50,040	

#### Amortization Based on 80% Funding Target

Table D provides a reasoned replication of what is believed to be CBO's assumptions supporting the amortization amount of \$3,034 million in 2017 after implementation of S.1486. These assumptions, while not exact, match the CBO amount to within 1.4% by amortizing 80 percent of the CBO adjusted unfunded liability.

Table D – Replication of CBO Amortization Payments – Amounts in \$millions		
A. Amortization period	37	Sept 30, 2016 to Sept 30, 2052
B. Rate	5.25%	
C. Amortization Factor	16.18	
D. Liability adjustment factor	0.98	Based on ratio of Normal Costs per CBO
E. Liability	112,225	PAYE Liability of 114,508 times D
F. Assets	50,040	Table C, 2017 value
G. Unfunded Liability	62,185	E - F
H. 80% of Unfunded Liability	49,748	80% x G



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Table D – Replication of CBO Amortization Payments – Amounts in \$millions		
I. Amortization amount	3,075	H divided by C

The amortization amount (Item I in Table D) of \$3,075 is reasonably close to the CBO estimate of \$3,034. It therefore appears that the CBO calculation used the formulation of the amount to be amortized as “(Liability-Assets) x 80%” whereas S. 1486 as written, (see S. 1486, Sec. 103(b)) would prescribe a “(Liability x 80%) - Assets” formulation.

#### **Premiums vs Claims Approach for Determining the Liability Reduction Factor**

USPS’s analysis of the financial impact of S.1486 applies the savings from Medicare integration to the retiree claims costs, in accordance with Actuarial Standards of Practice for measuring the retiree healthcare liability. This is the industry standard approach, and OPM’s valuation of USPS retiree healthcare liability (required by law and prepared annually for accounting disclosure purposes) is calculated by this method. In accordance with Actuarial Standards of Practice, the liability is based on annuitant claims and given that S. 1486 provides no instructions to deviate from standard actuarial practice, it is expected this same methodology will be followed if S.1486 is enacted.

The most current information from OPM is that a Medicare-eligible annuitant claims costs are \$4,952 per year for Self coverage. Under a conservative estimate of the effects of fully integrating benefits with Medicare Parts A, B, and D, it is projected that claims costs attributable to USPS through FEHB will be reduced by 30%, because Medicare will be paying for some costs that otherwise would have been a part of this claims pool. Further, if S.1486 is implemented, annuitant premiums (and employee premiums) are expected to be 10% lower, as the savings from fully integrating with Medicare will lower the blended rate that is used by FEHB for setting premiums—the effect of lower claims on FEHB because of greater utilization of Medicare.

On the other hand, CBO projects that under S.1486 the Normal Cost will only be reduced about 2 percent. Though the July 14, 2014, CBO cost estimate did not detail how the Normal Cost and Liability reductions were formulated, it appears that the CBO projected reduction in the liability of 2 percent is based only on expected changes in premiums (though at a smaller reduction than that assumed by USPS), with an additional upward adjustment for the difference between Postal and non-Postal claims costs.

#### **Summary/Conclusion**

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Three factors appear to have led to the difference between CBO and USPS projected funding costs for the PSRHBf.

First, it appears CBO projected the valuation results that OPM prepared under SFFAS 5, the *accounting* standard, which used a discount rate of 4.40%. For funding purposes, the valuation will use the Board of Actuaries approved long-term *funding* discount rate which is 5.25%. This difference would seemingly account for increases of the liability by about \$10 billion in 2017, as well as an increase to the Normal Cost of about 10 percent.

Second, it appears that CBO developed the amortization payment under S.1486 by amortizing 80 percent of the unfunded liability. The approach utilized by the Postal Service is consistent with the language of S.1486.

Third, CBO appears to have used the expected change in *premiums* (current amount vs expected amounts based on USPS population and full Medicare integration), whereas the USPS funding amounts were developed based on expected *claims* costs as well as the change in annuitant premiums. The approach utilized by the Postal Service is the appropriate one from an actuarial perspective.

All factors are important, however the third factor has the greatest influence on bridging the difference in results, and likely represents at least half of the difference.

In our professional judgment, the Postal Service's analysis of the cost savings associated with the Medicare integration provision of S.1486 is accurate and correct, and is based upon the appropriate actuarial analysis.

