

POSTAL SERVICE REFORM ACT OF 2021

JULY 16, 2021.—Ordered to be printed

Mrs. CAROLYN B. MALONEY of New York, from the Committee on Oversight and Reform, submitted the following

R E P O R T

[To accompany H.R. 3076]

The Committee on Oversight and Reform, to whom was referred the bill (H.R. 3076) to provide stability to and enhance the services of the United States Postal Service, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Postal Service Reform Act of 2021”.

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

Sec. 1. Short title; table of contents.

TITLE I—POSTAL SERVICE FINANCIAL REFORMS

Sec. 101. Postal Service Health Benefits Program.
Sec. 102. USPS Fairness Act.
Sec. 103. Nonpostal services.

TITLE II—POSTAL SERVICE OPERATIONAL REFORMS

Sec. 201. Performance targets and transparency.
Sec. 202. Integrated delivery network.
Sec. 203. Review of Postal Service cost attribution guidelines.
Sec. 204. Rural newspaper sustainability.
Sec. 205. Funding of Postal Regulatory Commission.
Sec. 206. Flats operations study and reform.
Sec. 207. Reporting requirements.
Sec. 208. Postal Service transportation selection policy revisions.
Sec. 209. USPS Inspector General oversight of Postal Regulatory Commission.

TITLE I—POSTAL SERVICE FINANCIAL REFORMS

SEC. 101. POSTAL SERVICE HEALTH BENEFITS PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by inserting after section 8903b the following:

“§ 8903c. Postal Service Health Benefits Program

“(a) DEFINITIONS.—In this section—

“(1) the term ‘covered Medicare individual’ means an individual who is entitled to benefits under Medicare part A, but excluding an individual who is eligible to enroll under such part under section 1818 or 1818A of the Social Security Act (42 U.S.C. 1395i–2, 1395i–2a);

“(2) the term ‘initial contract year’ means the contract year beginning in January of 2023;

“(3) 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 initial contract year;

“(4) the term ‘Medicare part A’ means part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

“(5) the term ‘Medicare part B’ means part B of title XVIII of the Social Security Act (42 U.S.C. 1395j 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 pursuant to the requirements of section 8906(g)(2);

“(9) the term ‘Postal Service employee’ means an employee of the Postal Service enrolled in a health benefits plan under this chapter whose Government contribution is paid by the Postal Service;

“(10) the term ‘Postal Service Medicare covered annuitant’ means an individual who—

“(A) is a Postal Service annuitant; and

“(B) is a covered Medicare individual;

“(11) the term ‘Program’ means the Postal Service Health Benefits Program established under subsection (c) within the Federal Employees Health Benefit Program;

“(12) the term ‘Program plan’ means a health benefits plan offered under the Program; and

“(13) the terms set forth in section 8901 shall apply.

“(b) APPLICATION.—The requirements under this section shall—

“(1) apply to the initial contract year and each contract year thereafter; and

“(2) supersede any other provision of this chapter inconsistent with such requirements, as determined by the Office of Personnel Management.

“(c) ESTABLISHMENT OF THE POSTAL SERVICE HEALTH BENEFITS PROGRAM.—

“(1) IN GENERAL.—The Office shall establish the Postal Service Health Benefits Program under which the Office contracts with carriers to offer health benefits plans as described under this section. Except as otherwise provided in this section, any such contract shall be consistent with the requirements of this

chapter for contracts under section 8902 with carriers to offer health benefits plans other than under this section. The Program shall—

“(A) to the greatest extent practicable, include plans offered by—

“(i) each carrier for which the total enrollment in the plans provided under this chapter includes, in the contract year beginning in January 2022, 1,500 or more enrollees who are Postal Service employees or Postal Service annuitants; and

“(ii) any other carrier determined appropriate by the Office;

“(B) be available for participation by Postal Service employees and Postal Service annuitants, in accordance with subsection (d);

“(C) provide for enrollment in a plan as an individual, for self plus one, or for self and family; and

“(D) not be available for participation by an individual who is not a Postal Service employee or Postal Service annuitant (except as a member of family of such an employee or annuitant or as provided under paragraph (5)).

“(2) SEPARATE POSTAL SERVICE RISK POOL.—The Office shall ensure that each Program plan includes rates that reasonably and equitably reflect the cost of benefits provided to a risk pool consisting solely of Postal Service employees, Postal Service annuitants, and covered members of family of such employees and annuitants (regardless of the health plan, coverage, or benefit program in which such an employee, annuitant, or member of family is enrolled), taking into specific account the change in benefits cost for the Program 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 Program plans offered by the carrier that is actuarially equivalent, as determined by the Office, to the coverage that the carrier provides under the health benefits plans offered by the carrier under this chapter that are not Program plans.

“(4) APPLICABILITY OF FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM REQUIREMENTS.—Except as otherwise set forth in this section, all provisions of this chapter applicable to health benefits plans offered by carriers under section 8903 or 8903a shall apply to plans offered under the Program.

“(5) APPLICATION OF CONTINUATION COVERAGE.—In accordance with rules established by the Office, section 8905a shall apply to health benefits plans offered under this section in the same manner as such section applies to other health benefits plans offered under this chapter.

“(d) ELECTION OF COVERAGE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), 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 of this section; and

“(B) may not enroll in any other health benefits plan offered under any other section of this chapter.

“(2) EXCEPTIONS.—

“(A) LACK OF GEOGRAPHIC COVERAGE.—An individual who is a Postal Service employee or Postal Service annuitant may enroll in a health benefits plan offered under any other section of this chapter if the individual resides in a geographic area for which there is not a Program plan in which the individual may enroll.

“(B) ANNUITANTS AS OF PROGRAM INCEPTION.—

“(i) CURRENT MEDICARE COVERED ANNUITANTS.—

“(I) IN GENERAL.—Subject to subclause (II), in the case of an individual who, as of January 1, 2023, is a Postal Service Medicare covered annuitant who has not enrolled in both Medicare part A and Medicare part B, such individual may enroll in a health benefits plan offered under any other section of this chapter, and may not enroll in a Program plan.

“(II) PROGRAM PLAN ENROLLMENT FOLLOWING MEDICARE PARTS A AND B ENROLLMENT.—In the case of an individual described in subclause (I) who subsequent to January 1, 2023, is enrolled in both Medicare part A and Medicare part B, beginning with the first contract year beginning after the date such individual is enrolled in both Medicare part A and Medicare part B, subclause (I) shall no longer apply to such individual and such individual may receive health benefits under this chapter only through a Program plan.

“(ii) PRE-MEDICARE ANNUITANTS.—

“(I) IN GENERAL.—Subject to subclause (II), an individual who, as of January 1, 2023, is a Postal Service annuitant and is not a Postal Service Medicare annuitant (for a reason other than eligibility to enroll in Medicare part A under section 1818 or 1818A of the Social Security Act) may enroll in either a Program plan or in a health benefits plan offered under any other section of this chapter.

“(II) EXCEPTION.—In the case of an individual described in subclause (I) who enrolls in a Program plan for any contract year beginning on or after the date on which the individual becomes a Postal Service Medicare covered annuitant, beginning with such contract year, subclause (I) shall no longer apply to the individual and the individual may receive health benefits under this chapter only through enrollment in a Program plan.

“(C) CERTAIN EMPLOYEES AS OF PROGRAM INCEPTION.—

“(i) LEGACY COVERAGE.—A Postal Service employee who is enrolled in a health benefits plan under this chapter for the contract year immediately preceding the initial contract year that is not a health benefits plan offered by an initial participating carrier may enroll in either a Program plan or in a health benefits plan offered under any other section of this chapter, except that—

“(I) if the Postal Service employee changes enrollment to a different health benefits plan under this chapter during the open season for the initial contract year, or after the start of the initial contract year, the Postal Service employee may only enroll in a Program plan;

“(II) if the health benefits plan in which such employee is enrolled for such contract year becomes available as a Program plan, the Postal Service employee may only enroll in a Program plan; and

“(III) 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 Program plan during the open season that is—

“(aa) being held when the Postal Service employee becomes a Postal Service annuitant; or

“(bb) 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.

“(ii) CURRENT EMPLOYEES AGED 64 AND OVER.—

“(I) IN GENERAL.—Subject to subclause (II), an individual who, as of January 1, 2023, is a Postal Service employee and is at least 64 years of age may enroll in either a Program plan or in a health benefits plan offered under any other section of this chapter.

“(II) EXCEPTION.—In the case of an individual described in subclause (I) who enrolls in a Program plan for any contract year beginning on or after the date on which the individual becomes a Postal Service Medicare covered annuitant, beginning with such contract year, subclause (I) shall no longer apply to the individual and the individual may receive health benefits under this chapter only through enrollment in a Program plan.

“(D) CERTAIN OTHER ANNUITANTS.—

“(i) ANNUITANTS AND FAMILY MEMBERS EXCLUDED FROM PREMIUM-FREE MEDICARE PART A.—

“(I) IN GENERAL.—Subject to subclause (II), a Postal Service annuitant who is eligible to enroll in Medicare Part A under section 1818 or 1818A of the Social Security Act may enroll in either a Program plan or in a health benefits plan offered under any other section of this chapter if the annuitant—

“(aa) is eligible to enroll in Medicare part A under section 1818 or 1818A of the Social Security Act; or

“(bb) includes in the annuitant’s plan enrollment one or more family members who are eligible to enroll in Medicare part A under section 1818 or 1818A of such Act.

“(II) EXCEPTION.—In the case of an annuitant described in subclause (I) who enrolls in a Program plan for any contract year beginning on or after the date on which the annuitant or any member of family covered by the enrollment becomes eligible to enroll in Medicare part A, beginning with such contract year, subclause (I) shall no longer apply to the annuitant and the annuitant may re-

ceive health benefits under this chapter only through enrollment in a Program plan.

“(ii) LIMITED OR REDUNDANT COVERAGE.—An individual who is a Postal Service annuitant may enroll either in a Program plan (subject to subsection (e) of this section and to sections 226(j) and 1837(o)(2) of the Social Security Act) or in a health benefits plan offered under any other section of this chapter for any contract year in which the annuitant or member of family covered by the enrollment, respectively, is a covered Medicare individual and—

“(I) the annuitant or family member, respectively, resides in an area where the Office has determined that no Medicare providers are available;

“(II) the annuitant receives comprehensive medical coverage provided by the Department of Veterans Affairs under subchapter II of chapter 17 of title 38, United States Code; or

“(III) the annuitant receives comprehensive medical coverage provided by the Indian Health Service under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

“(iii) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Office shall, in consultation with the Secretary of Health and Human Services, the Secretary of Veterans Affairs, and the Postmaster General, promulgate any regulations necessary to implement this subparagraph.

“(e) REQUIREMENT OF MEDICARE ENROLLMENT FOR CERTAIN ANNUITANTS AND THEIR FAMILY MEMBERS.—

“(1) ANNUITANTS.—Except as provided under subsection (d)(2), a Postal Service Medicare covered annuitant may not enroll under a Program plan unless the annuitant is enrolled in both Medicare part A and Medicare part B.

“(2) MEDICARE COVERED FAMILY MEMBERS.—In the case of a Postal Service annuitant who is required under this subsection to enroll in Medicare part A and Medicare part B to enroll under the Program, if a member of family of such Postal Service annuitant is a covered Medicare individual or is eligible to enroll in Medicare Part A under section 1818 or 1818A of the Social Security Act, that member of family may not enroll under the Program as a member of family of the Postal Service annuitant unless that member of family is enrolled in both Medicare part A and Medicare part B.

“(3) PROCESS FOR COORDINATED ELECTION OF MEDICARE ENROLLMENT.—The Office shall establish a process under which—

“(A) Postal Service annuitants and members of family who are subject to the requirements of paragraph (1) or (2)—

“(i) are informed, prior to enrollment under this section, of such requirement; and

“(ii) receive requests for any additional information necessary for enrollment in writing; and

“(B) the Office provides the Secretary of Health and Human Services and the Commissioner of Social Security in a timely manner with such information with respect to such annuitants and members of family and such election as may be required to effect their enrollment and coverage under Medicare part A and Medicare part B and this section in a timely manner, including to effect deemed enrollments, if applicable under sections 226(j) and 1837(o) of the Social Security Act, for such continuous period as such annuitant or member of family involved otherwise maintains eligibility for enrollment under Medicare part A and Medicare part B, to have elected to be enrolled under such part (in accordance with such sections) in connection with the enrollment in a Program plan under this section.

“(f) MEDICARE COORDINATION.—

“(1) IN GENERAL.—The Office shall require each Program plan to provide benefits for covered Medicare individuals (and individuals eligible to enroll in Medicare part A pursuant to section 1818 or 1818A of the Social Security Act) pursuant to the same coordination of benefits method used in connection with plans offered under any other section of this chapter.

“(2) MEDICARE PART D PRESCRIPTION DRUG BENEFITS.—The Office shall require each Program plan to provide prescription drug benefits to any Postal Service annuitant and member of family of such annuitant who is a part D eligible individual (as defined in section 1860D–1(a)(3)(A) of the Social Security Act) through employment-based retiree health coverage (as defined in section 1860D–22(c)(1) of such Act) through a prescription drug plan (as defined in section 1860D–41(a)(14) of such Act).

“(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 paragraphs (2) and (3).

“(2) WEIGHTED AVERAGE CALCULATION.—Not later than October 1 of each year (beginning with 2022), the Office shall determine the weighted average of the rates established pursuant to subsection (c)(2) for Program 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.

“(3) WEIGHTING IN COMPUTING RATES FOR INITIAL CONTRACT YEAR.—In determining such weighted average of the rates for the initial contract year, the Office shall take into account (for purposes of section 8906(a)(2)) the enrollment of Postal Service employees and annuitants in the health benefits plans offered by the initial participating carriers as of March 31, 2022.

“(h) RESERVES.—

“(1) SEPARATE RESERVES.—

“(A) IN GENERAL.—The Office shall ensure that each Program plan maintains separate reserves (including a separate contingency reserve) with respect to the enrollees in the Program plan in accordance with section 8909. All provisions of section 8909 relating to contingency reserves shall apply to contingency reserves of Program plans in the same manner as to those of other plans under this chapter, except to the extent that such provisions are inconsistent with the requirements of this subsection.

“(B) REFERENCES.—For purposes of the 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 Program plan shall be credited with a proportionate amount of the funds in the reserves for health benefits plans offered by the carrier.

“(2) DISCONTINUATION OF PROGRAM PLAN.—In applying section 8909(e) relating to a Program 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 Program 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.

“(j) HEALTH BENEFITS EDUCATION PROGRAM.—

“(1) Not later than 180 days after the date of enactment of this section, the Postal Service shall establish a Health Benefits Education Program. Under the Program, the Postal Service shall—

“(A) notify annuitants and employees of the Postal Service about the Postal Service Health Benefits Program established under subsection (c)(1);

“(B) provide information regarding the Postal Service Health Benefits Program to such annuitants and employees, including a description of the health care options available under such Program, the enrollment provisions of subsection (d), and the requirement that annuitants and their family members be enrolled in Medicare under subsection (e); and

“(C) in coordination with the Centers for Medicare & Medicaid Services and the Commissioner of Social Security, respond and provide answers to any inquiry from such employees and annuitants about the Postal Service Health Benefits Program or Medicare enrollment.

“(2) The Office shall timely provide the Postal Service with such information as the Postal Service determines to be necessary to conduct the Medicare Education Program.”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 8903(1) of title 5, United States Code, is amended by striking “two levels of benefits” and inserting “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”.

(B) The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8903b the following:

“8903c. Postal Service Health Benefits Program.”.

(b) COORDINATION WITH MEDICARE.—

(1) MEDICARE PART A.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended by adding at the end the following new subsection:

- “(j)(1) In the case of an individual who—
- “(A) on or after January 1, 2023, is—
 - “(i) a Postal Service employee;
 - “(ii) a Postal Service annuitant who is not a Postal Service Medicare covered annuitant; or
 - “(iii) a member of family of a Postal Service employee or of a Postal Service annuitant and who is not described in section 1837(o)(1) of this Act; and
 - “(B) enrolls in a Program plan under section 8903c of title 5, United States Code,
- such individual is deemed to be enrolled under this part, regardless of whether such individual has filed an application under subparagraph (A) or (C) of subsection (a)(2).
- “(2) Entitlement to hospital benefits under part A by reason of paragraph (1) begins as of—
- “(A) in the case of an individual who is a Postal Service employee or a Postal Service annuitant who is eligible to become a Postal Service Medicare covered annuitant, the date on which the individual becomes a Postal Service Medicare covered annuitant or the date of enrollment in a Program plan, whichever is later;
 - “(B) in the case of an individual who is eligible to enroll under section 1818 or 1818A, the date on which the individual attains such eligibility or the date of enrollment in a Program plan whichever is later; and
 - “(C) in the case of an individual who is described in paragraph (1)(A)(iii) and is eligible to become a covered Medicare individual, as of the first date the individual becomes a covered Medicare individual or the date of enrollment in a Program plan, whichever is later.
- “(3) The definitions in section 8903c(a) of title 5, United States Code, shall apply for purposes of this subsection.
- “(4) Nothing in this subsection shall be construed to deprive any individual of any other method or period of enrollment to which such individual is entitled under this section.”.
- (2) MEDICARE PART B.—
- (A) ENROLLMENT.—Section 1837 of the Social Security Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:
- “(o)(1) In the case of an individual who—
- “(A) as of January 1, 2023, is—
 - “(i) a Postal Service Medicare covered annuitant; or
 - “(ii) a member of family of a Postal Service employee or of a Postal Service annuitant and is a covered Medicare individual;
 - “(B) intends to enroll in a Program plan under section 8903c of title 5, United States Code, for the initial contract year; and
 - “(C) is not enrolled under this part,
- the individual may elect to be enrolled under this part during a special enrollment period during the 3-month period beginning on January 1, 2023.
- “(2) In the case of an individual who—
- “(A) on or after January 1, 2023, is—
 - “(i) a Postal Service employee;
 - “(ii) a Postal Service annuitant who is not a Postal Service Medicare covered annuitant; or
 - “(iii) a member of family of a Postal Service employee or of a Postal Service annuitant and who is not described in paragraph (1); and
 - “(B) enrolls in a Program plan under section 8903c of title 5, United States Code;
- the individual shall be deemed to have enrolled in the medical insurance program established by this part.
- “(3) The definitions in section 8903c(a) of title 5, United States Code, shall apply for purposes of this subsection.
- “(4) Nothing in this subsection shall be construed to deprive any individual of any other method or period of enrollment to which such individual is entitled under this section.”.
- (B) COVERAGE PERIODS.—Section 1838 of the Social Security Act (42 U.S.C. 1395q) is amended by adding at the end the following new subsection:
- “(i) Notwithstanding subsection (a)—
- “(1) in the case of an individual who enrolls under this part pursuant to a special enrollment period under paragraph (1) of section 1837(o), the coverage period under this part shall begin on the date that the individual first has cov-

erage under the Program plan pursuant to the enrollment described in paragraph (1)(B) of such section; and

“(2) in the case of an individual who is deemed enrolled under paragraph (2) of section 1837(o), the coverage period under this part shall begin as of—

“(A) in the case of such an individual who is a Postal Service employee or a Postal Service annuitant who is eligible to become a Postal Service Medicare covered annuitant, the date on which the individual becomes a Postal Service Medicare covered annuitant or the date of enrollment in a Program plan, whichever is later;

“(B) in the case of such an individual who is eligible to enroll under section 1818 or 1818A of this Social Security Act, the date on which the individual attains such eligibility or the date of enrollment in a Program plan, whichever is later; and

“(C) in the case of an individual described in paragraph (2)(A)(i)(III) of such section who is eligible to become a covered Medicare individual, as of the first date the individual becomes a covered Medicare individual or the date of enrollment in a Program plan, whichever is later.”

(3) PART D EGWP CONTRACTING CONFORMING AMENDMENT.—Section 1860D–22(b) of the Social Security Act (42 U.S.C. 1395w–132(b)) is amended by inserting before the period at the end the following: “, and shall be applied in a manner to facilitate the offering of prescription drug benefits under a Program plan under section 8903c of title 5, United States Code, through employment-based retiree health coverage through a prescription drug plan, as required under subsection (f) of such section, through contracts between such a Program plan and such a prescription drug plan”.

(4) WAIVER OF INCREASE OF MEDICARE PART B PREMIUM.—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended by inserting after “subsection (i)(4) or (l) of section 1837” the following: “or pursuant to the special enrollment period under subsection (o)(1) of such section”.

SEC. 102. USPS FAIRNESS ACT.

(a) SHORT TITLE.—This section may be cited as the “USPS Fairness Act”.

(b) RATIONAL BENEFITS FUNDING AND ACCOUNTING.—

(1) IN GENERAL.—Section 8909a of title 5, United States Code, is amended by striking subsection (d) and inserting the following:

“(d)(1) Not later than June 30, 2024, and by June 30 of each succeeding year, the Office shall compute, for the most recently concluded fiscal year, the difference between—

“(A) any Government contributions required to be paid from the Fund under section 8906(g)(2)(A); and

“(B) the net claims costs under the enrollment of the individuals described in section 8906(g)(2)(A).

“(2) Not later than September 30 of each year in which the Office makes a computation under paragraph (1), the United States Postal Service shall pay into the Fund the difference computed in such paragraph.

“(e) Any computation of the liability of the Fund required by law shall be based on—

“(1) the net present value of the future net claims costs with respect to—

“(A) current annuitants of the United States Postal Service as of the end of the fiscal year ending on September 30 of the relevant reporting year; and

“(B) current employees of the United States Postal Service who would, as of September 30 of that year,—

“(i) be eligible to become annuitants pursuant to section 8901(3)(A);

and

“(ii) if they were retired as of that date, meet the criteria for coverage of annuitants under section 8905(b);

“(2) 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

“(3) any other methods and assumptions, including a health care cost trend rate, that the Director of the Office determines to be appropriate.

“(f) After consultation with the United States Postal Service, the Office shall promulgate any regulations the Office determines necessary under this subsection.

“(g) For purposes of this section, the term ‘net claims costs’ shall mean the difference between—

“(1) the sum of—

“(A) the costs incurred by a carrier in providing health services to, paying for health services provided to, or reimbursing expenses for health services

provided to, annuitants of the United States Postal Service and any other persons covered under the enrollment of such annuitants; and

“(B) an amount of indirect expenses reasonably allocable to the provision, payment, or reimbursement described in subparagraph (A), as determined by the Office; and

“(2) the amount withheld from the annuity of or paid by annuitants of the United States Postal Service under section 8906.”.

(2) CLERICAL AMENDMENT.—The heading of section 8909a of title 5, United States Code, is amended by striking “**Benefit**” and inserting “**Benefits**”.

(c) APPLICATION.—

(1) CANCELLATION OF PAYMENTS.—Any payment required from the Postal Service under section 8909a of title 5, United States Code, as in effect on the day before the date of enactment of this Act that remains unpaid as of such date of enactment is canceled.

(2) EFFECT OF THIS ACT.—In any determination relating to the future liability for retiree health benefits of the United States Postal Service or the Postal Service Retiree Health Benefits Fund, the Office of Personnel Management shall take into account the actual and reasonably expected effects of this Act.

(d) USE OF FUNDS FROM SALE OF REAL PROPERTY FOR CERTAIN PAYMENTS.—

(1) IN GENERAL.—Chapter 29 of title 39, United States Code, is amended by adding at the end the following:

“§ 2903. Use of funds from sale of property

“In the event that the Postal Service permanently ceases operations, any funds derived from the sale of any real property owned by the Postal Service shall be used to pay any outstanding liability with respect to the salaries and expenses of any Postal Service employee. The balance of any remaining funds shall be deposited into the Postal Service Retiree Health Benefits Fund established under section 8909a of title 5.”.

(2) CLERICAL AMENDMENT.—The table of sections of such chapter is amended by adding after the item relating to section 2902 the following new item:

“2903. Use of funds from sale of property.”.

SEC. 103. NONPOSTAL SERVICES.

(a) NONPOSTAL SERVICES.—

(1) IN GENERAL.—Part IV of title 39, United States Code, is amended by adding after chapter 36 the following:

“CHAPTER 37—NONPOSTAL SERVICES

“Sec.

“3701. Purpose.

“3702. Definitions.

“3703. Postal Service program for State governments.

“3704. Postal Service program for other Government agencies.

“3705. Transparency and accountability for nonpostal services.

“§ 3701. Purpose

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

“§ 3702. Definitions

“In this chapter—

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

“(2) the term ‘attributable costs’ has the meaning given such term in section 3631; and

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

“§ 3703. Postal Service program for State governments

“(a) IN GENERAL.—Notwithstanding any other provision of this title, the Postal Service may establish a program to enter into agreements with an agency of any State government, local government, or tribal government to provide property and services on behalf of such agencies for non-commercial products and services, but only if such property and services—

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

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

- “(A) the cost and efficiency of postal services; and
 “(B) unreasonably restricting access to postal retail service, such as customer waiting time and access to parking; and
 “(3) provide a reasonable contribution to the institutional costs of the Postal Service, defined as reimbursement that covers at least 100 percent of attributable costs of all property and services provided under each relevant agreement in each year.
- “(b) PUBLIC NOTICE.—At least 90 days before offering a service under the program, the Postal Service shall make available to the public on its website—
 “(1) the agreement with the agency regarding such service; and
 “(2) a business plan that describes the specific service to be provided, the enhanced value to the public, terms of reimbursement, the estimated annual reimbursement to the Postal Service, and the estimated percentage of attributable Postal Service costs that will be covered by reimbursement (with documentation to support the estimates).
- “(c) PUBLIC COMMENT.—Before offering a service under the program, the Postal Service shall provide for a public comment period of at least 30 days that allows the public to post comments relating to the provision of such services on the Postal Service website. The Postal Service shall make reasonable efforts to provide written responses to the comments on such website at least 30 days before offering such services.
- “(d) APPROVAL REQUIRED.—The Postal Service may not establish the program under subsection (a) unless the Governors of the Postal Service approve such program by a recorded vote that is publicly disclosed on the Postal Service website with a majority of the total Governors voting for approval.
- “(e) APPLICATION OF REPORTING REQUIREMENTS.—For purposes of the reporting requirements under section 3705, the Postal Service shall submit a separate report for each agreement with an agency entered into under subsection (a) analyzing the costs, revenues, rates, and quality of service for the provision of all services under such agreement, including information demonstrating that the agreement satisfies the requirements of paragraphs (1) through (3) of subsection (a).
- “(f) REGULATIONS REQUIRED.—The Postal Regulatory Commission shall issue such regulations as are necessary to carry out this section.
- “(g) DEFINITIONS.—For the purpose of this section—
 “(1) the term ‘local government’ means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments, or regional or interstate government entity;
 “(2) the term ‘State government’ includes the government of 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;
 “(3) 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)); and
 “(4) the term ‘United States’, when used in a geographical sense, means the States, 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.
- “(h) CONFIDENTIAL INFORMATION.—Subsection (b) or (c) shall not be construed as requiring the Postal Service to disclose to the public any information—
 “(1) described in section 410(c); or
 “(2) exempt from public disclosure under section 552(b) of title 5.

“§ 3704. Postal Service program for other Government agencies

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

“(b) APPLICATION OF REPORTING REQUIREMENTS.—For purposes of the reporting requirements under section 3705, the Postal Service shall submit a separate report for each agreement with an agency entered into under subsection (a) analyzing the costs, revenues, rates, and quality of service for the provision of all services under such agreement, including information demonstrating that the agreement satisfies the requirements of subsection (a).

“§ 3705. Transparency and accountability for nonpostal services

“(a) ANNUAL REPORT TO THE COMMISSION.—

“(1) IN GENERAL.—Not later than 90 days after the last day of each year, the Postal Service shall submit to the Postal Regulatory Commission a report that analyzes costs, revenues, rates, and quality of service for each agreement for the provision of property and services under this chapter, using such methodologies as the Commission may prescribe, and in sufficient detail to demonstrate compliance with the requirements of this chapter.

“(2) SUPPORTING MATTER.—A report submitted under paragraph (1) shall include any nonpublic annex, the working papers, and any other supporting matter of the Postal Service and the Inspector General related to the information submitted in such report.

“(b) CONTENT AND FORM OF REPORT.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the report required under subsection (a). In prescribing such regulations, the Commission shall give due consideration to—

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

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

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

“(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of any interested party, initiate proceedings to improve the quality, accuracy, or completeness of Postal Service data required by the Commission if—

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

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

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

“(c) AUDITS.—The Inspector General shall regularly audit the data collection systems and procedures used in collecting information and preparing the report required under subsection (a). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

“(d) CONFIDENTIAL INFORMATION.—

“(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section contains information described in section 410(c), or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

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

“(e) ANNUAL COMPLIANCE DETERMINATION.—

“(1) OPPORTUNITY FOR PUBLIC COMMENT.—Upon receiving a report required under subsection (a), the Postal Regulatory Commission shall promptly—

“(A) provide an opportunity for comment on such report by any interested party; and

“(B) appoint an officer of the Commission to represent the interests of the general public.

“(2) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving a report required under subsection (a), the Postal Regulatory Commission shall make a written determination as to whether the nonpostal activities carried out during the applicable year were or were not in compliance with the provisions of this chapter. For purposes of this paragraph, any case in which the requirements for coverage of attributable costs have not been met shall be considered to be a case of noncompliance. If, with respect to a year, no instance of noncompliance is found to have occurred, the determination shall be to that effect. Such determination of noncompliance shall be included with the annual compliance determination required under section 3653.

“(3) NONCOMPLIANCE.—If a timely written determination of noncompliance is made under paragraph (2), the Postal Regulatory Commission shall take appropriate action. If the requirements for coverage of attributable costs specified by this chapter are not met, the Commission shall, within 60 days after the deter-

mination, prescribe remedial action to restore compliance as soon as practicable, including the full restoration of revenue shortfalls during the following year. The Commission may order the Postal Service to discontinue a nonpostal service under section 3703 that persistently fails to meet cost coverage requirements.

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

“(f) REGULATIONS REQUIRED.—The Postal Regulatory Commission shall issue such regulations as are necessary to carry out this section.”

(2) CLERICAL AMENDMENT.—The table of chapters for part IV of title 39, United States Code, is amended by adding after the item relating to chapter 36 the following:

“37. Nonpostal services 3701”.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 404.—Section 404(e) of title 39, United States Code, is amended—
(A) in paragraph (2), by inserting after “subsection” the following: “, or any nonpostal products or services authorized by chapter 37”; and
(B) by adding at the end the following:

“(6) Licensing which, before the date of enactment of this paragraph, has been authorized by the Postal Regulatory Commission for continuation as a nonpostal service may not be used for any purpose other than—

“(A) to continue to provide licensed mailing, shipping, or stationery supplies offered as of June 23, 2011; or

“(B) to license other goods, products, or services, the primary purpose of which is to promote and enhance the image or brand of the Postal Service.

“(7) Nothing in this section shall be construed to prevent the Postal Service from establishing nonpostal products and services that are expressly authorized by chapter 37.”

(2) SECTION 411.—The last sentence of section 411 of title 39, United States Code, is amended by striking “including reimbursability” and inserting “including reimbursability within the limitations of chapter 37”.

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

(4) REPEAL OF CERTAIN LIMITATIONS ON EXPERIMENTAL PRODUCTS.—Section 3641 of title 39, United States Code, is amended—

(A) by striking subsections (b), (d), and (e); and

(B) by redesignating—

(i) subsection (c) as subsection (b); and

(ii) subsections (f), (g), (h), and (i) as subsections (c), (d), (e), and (f), respectively.

TITLE II—POSTAL SERVICE OPERATIONAL REFORMS

SEC. 201. PERFORMANCE TARGETS AND TRANSPARENCY.

(a) IN GENERAL.—Subchapter VII of chapter 36 of title 39, United States Code, is amended by inserting after section 3691 the following:

“§ 3692. Performance targets and transparency

“(a) PERFORMANCE TARGETS.—Each year, to ensure that mail service for postal customers meets the service standards for market-dominant products, established under section 3691, the Postal Service shall—

“(1) at least 60 days before the beginning of the fiscal year in which they will apply, establish and provide to the Postal Regulatory Commission reasonable targets for performance; and

“(2) provide the previous fiscal years’ performance targets in its Annual Compliance Report to the Postal Regulatory Commission for evaluation of compliance.

“(b) PUBLIC PERFORMANCE DASHBOARD.—

“(1) IN GENERAL.—The Postal Service shall develop and maintain a publicly available Website with an interactive web-tool that provides performance information for market-dominant products that is updated on a weekly basis.

“(2) PERFORMANCE INFORMATION.—The performance information provided on the Website shall include—

- “(A) the type of market-dominant product;
- “(B) geographic area at the nationwide, Area, and District level;
- “(C) time periods showing performance information in annual, quarterly, monthly, and weekly segments;
- “(D) comparisons of performance information for market-dominant products for previous time periods to facilitate identification of performance trends; and
- “(E) the current performance targets and previous fiscal year performance targets, established under subsection (a)(1).

“(3) COMPREHENSIBILITY.—The Website shall include plain language descriptions of the elements required under paragraph (2) and information on the collection process, measurement methodology, completeness, accuracy, and validity of the performance information provided on the Website.

“(4) ADDRESS SEARCH FUNCTIONALITY.—The Website shall include functionality to enable a user to search for performance information by street address, ZIP Code, or post office box.

“(5) FORMAT.—The performance information provided on the Website shall be made available—

- “(A) in a manner that—
 - “(i) presents the information referenced under paragraph (2) on an interactive dashboard;
 - “(ii) is searchable and may be sorted and filtered by the elements described in paragraph (2); and
 - “(iii) to the extent practicable, enables any person or entity to download in bulk—
 - “(I) such performance information; and
 - “(II) the results of a search by the elements described in paragraph (2);

“(B) in an open format that permits any individual or entity to reuse and analyze the performance information; and

“(C) in a structured data format, to the extent practicable.

“(6) CONSULTATION.—The Postal Service shall regularly consult with the Postal Regulatory Commission on appropriate features and information to be included on the Website.

“(7) PUBLIC INPUT.—The Postal Service shall—

- “(A) solicit public input on the design and implementation of the Website; and
- “(B) maintain a public feedback tool, to ensure features of, and information on, the Website is usable and understandable.

“(8) DEADLINE.—The Website shall be implemented and made available to the public not later than the date on which the performance targets are provided to the Postal Regulatory Commission under subsection (a)(1).

“(9) AVAILABILITY.—A link and plain language description of the Website shall be made available on the website where the performance targets and measurements established under subsection (a)(1) are made available.

“(10) REPORTING.—The dashboard referred to in paragraph (5)(A)(i) shall be referenced in the Annual Performance Plan under section 2803, the Annual Performance Report under section 2804, and the Annual Report under section 2402.

“(11) DEFINITIONS.—In this subsection—

“(A) PERFORMANCE INFORMATION.—The term ‘performance information’ means the objective external performance measurements established under section 3691(b)(1)(D).

“(B) WEBSITE.—The term ‘Website’ means the website described in paragraph (1).”.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by inserting after the item relating to section 3691 the following:

“3692. Performance targets and transparency.”.

SEC. 202. INTEGRATED DELIVERY NETWORK.

Section 101(b) of title 39, United States Code, is amended by inserting before “The Postal Service” the following: “The Postal Service shall maintain an integrated network for the delivery of market-dominant and competitive products (as defined in chapter 36 of this title). Delivery shall occur at least six days a week, except during

weeks that include a Federal holiday or in emergency situations, such as natural disasters.”.

SEC. 203. REVIEW OF POSTAL SERVICE COST ATTRIBUTION GUIDELINES.

Not later than the date that is one year after the date of the enactment of this Act, the Postal Regulatory Commission shall initiate a review of the regulations issued pursuant to sections 3633(a) and 3652(a)(1) of title 39, United States Code, to determine whether revisions are appropriate to ensure that all direct and indirect costs attributable to competitive and market-dominant products are properly attributed to those products, including by considering the underlying methodologies in determining cost attribution and considering options to revise such methodologies. If the Commission determines, after notice and opportunity for public comment, that revisions are appropriate, the Commission shall make modifications or adopt alternative methodologies as necessary.

SEC. 204. RURAL NEWSPAPER SUSTAINABILITY.

Section 3626(h) of title 39, United States Code, is amended by striking “10 percent” and inserting “50 percent”.

SEC. 205. FUNDING OF POSTAL REGULATORY COMMISSION.

(a) IN GENERAL.—Subsection (d) of section 504 of title 39, United States Code, is amended to read as follows:

“(d)(1) Not later than September 1 of each fiscal year (beginning with fiscal year 2022), the Postal Regulatory Commission shall submit to the Postal Service a budget of the Commission’s expenses, including expenses for facilities, supplies, compensation, and employee benefits, for the following fiscal year. Any such budget shall be deemed approved as submitted if the Governors fail to adjust the budget in accordance with paragraph (2).

“(2)(A) Not later than 30 days after receiving a budget under paragraph (1), the Governors holding office, by unanimous written decision, may adjust the total amount of funding requested in such budget. Nothing in this subparagraph may be construed to authorize the Governors to adjust any activity proposed to be funded by the budget.

“(B) If the Governors adjust the budget under subparagraph (A), the Postal Regulatory Commission shall adjust the suballocations within such budget to reflect the total adjustment made by the Governors. The budget shall be deemed approved on the date the Commission makes any such adjustments. The Commission may make further adjustments to the suballocations within such budget as necessary.

“(3) Expenses incurred under any budget approved under this subsection shall be paid out of the Postal Service Fund established under section 2003.”.

(b) CONFORMING AMENDMENTS.—Title 39, United States Code, is amended—

(1) in section 2003(e), by striking “(B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d);” and inserting “(B) all expenses of the Postal Regulatory Commission, pursuant to section 504(d);”; and

(2) in section 2009—

(A) by striking “, (2)” and inserting “, and (2)”; and

(B) by striking “, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title”.

SEC. 206. FLATS OPERATIONS STUDY AND REFORM.

(a) FLATS OPERATIONS STUDY.—

(1) IN GENERAL.—The Postal Regulatory Commission, in consultation with the Inspector General of the United States Postal Service, shall conduct a study to—

(A) comprehensively identify the causes of inefficiencies in the collection, sorting, transportation, and delivery of Flats; and

(B) quantify the effects of the volume trends, investments decisions, excess capacity, and operational inefficiencies of the Postal Service on the direct and indirect costs of the Postal Service that are attributable to Flats.

(2) POSTAL SERVICE ASSISTANCE.—For the purposes of carrying out the study under paragraph (1), the Postal Service shall, upon request by the Postal Regulatory Commission, consult with the Postal Regulatory Commission and provide—

(A) access to Postal Service facilities to personnel of the Postal Regulatory Commission; and

(B) information and records necessary to conduct such study.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Postal Regulatory Commission shall submit to Congress and the Post-

master General a report on the findings of the study conducted under paragraph (1).

(4) **FLATS DEFINED.**—In this subsection, the term “Flats” means products that meet the physical standards described in the Domestic Mail Manual (as in effect on the date of the enactment of this Act) for Flats mail for any class of mail.

(b) **FLATS OPERATIONS REFORM.**—

(1) **IN GENERAL.**—Not later than six months after the date on which the Postal Regulatory Commission submits the report described in subsection (a)(3), the Postal Service shall—

(A) develop and implement a plan to remedy each inefficiency identified in the study conducted under subsection (a)(1) to the extent practicable; and

(B) if the Postal Service determines that remedying any such inefficiency is not practicable, provide to Congress and the Postal Regulatory Commission an explanation why remedying such inefficiency is not practicable, including whether it may become practicable to remedy such inefficiency at a later time.

(2) **IMPLEMENTATION REQUIREMENTS.**—Prior to implementing the plan described in paragraph (1)—

(A) the Postal Regulatory Commission must approve the plan; and

(B) the Postal Service shall provide an adequate opportunity for public comment on the plan.

(3) **COMPLETION NOTICE.**—On the date on which the plan described in paragraph (1) is fully implemented, as determined by the Postmaster General, the Postmaster General shall submit to Congress and the Postal Regulatory Commission a written notice of such implementation.

(c) **SUBSEQUENT RATE ADJUSTMENTS.**—During the five-year period beginning on the date on which the Postmaster General submits the notice under subsection (b)(3), the Postal Service shall consider the findings of the report described in subsection (a)(3) and the efficacy of the plan described in subsection (b)(1) in remedying the inefficiencies identified in the study conducted under subsection (a)(1) when making any adjustment to the rate of a market-dominant product (as defined in section 102 of title 39, United States Code).

SEC. 207. REPORTING REQUIREMENTS.

(a) **IN GENERAL.**—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the Postmaster General shall submit to the President, the Postal Regulatory Commission, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Reform of the House of Representatives a report on the operations and financial condition of the Postal Service during the six-month period ending on the date on which the Postmaster General submits such report.

(b) **CONTENTS.**—Each report submitted under this section shall include updates, details of changes from previous standards and requirements, and assessments of progress being made on the operations and financial condition of the Postal Service, including—

(1) the actual mail and package volume growth relative to any mail or package volume growth projections previously made or relied upon by the Postal Service, including a discussion of the reasons for the differences in projections and the associated adjustments being made in order to accommodate any such differences;

(2) the effect of pricing changes on product volume for market-dominant and competitive products, and associated revenue effects on financial projections, including a discussion of the reasons behind the differences in projections and associated adjustments being made;

(3) customer use of network distribution centers and processing and distribution centers, and associated costs and revenue effects;

(4) the status of, and any substantial programmatic changes to, the USPS Connect program relative to previous plans by the Postal Service, including online sales and customer expectations regarding shipping speeds and shopping preferences relative to projections, as well as associated implementation costs and revenue effects on the financial projects;

(5) the use of Priority Mail, Priority Mail Express, First-Class Package Service, and Parcel Select services (as such terms are defined in the Domestic Mail Classification Schedule as in effect on the date of the enactment of this Act) among businesses of various sizes, and associated revenue effects;

(6) the use of USPS Connect Returns service among customers, and associated implementation costs and revenue effects;

(7) the use of USPS E-Commerce Marketplace among customers, and associated implementation costs and revenue effects;

(8) updates on the reliability, efficiency, and cost-effectiveness of the transportation network, including the manner in which ground transportation is utilized over air transportation for types of products;

(9) a review of efforts to enhance employee training, safety, and wellbeing, including associated effects on employee recruitment, satisfaction, and retention;

(10) a review of efforts being made to improve employee allocation, including changes of non-career employees to career status, and any associated impacts to operational expenses and processing, transportation, and delivery efficiency;

(11) the rate of planned investment into Postal Service processing, transportation, and delivery equipment and infrastructure for market-dominant and competitive products, and a review of any associated effects on operational expenses and efficiency;

(12) changes to network distribution centers and the expansion of regional distribution centers, including costs associated with the changes and any realized reduction in operational expenses or improved resource efficiencies;

(13) a review of the ability of the Postal Service to meet performance targets established under section 3692(a)(1)(A) of title 39, United States Code;

(14) a discussion of the progress of the Postal Service in achieving any new, self-funded investments, including the amounts realized and expended to date, and a discussion of the reasons behind any disparities in the assumptions regarding the expected progress of the Postal Service getting new, self-funded investments to accommodate changes; and

(15) any other information the Postal Service determines relevant, such as barriers or unanticipated events, in order to help the Postal Regulatory Commission, Congress, the President, and the American public evaluate the success or difficulties faced by the Postal Service in implementing the reform plan.

(c) CONFIDENTIAL INFORMATION.—

(1) **IN GENERAL.**—The report required under this subsection shall be submitted in a form that excludes any proprietary or confidential information and trade secrets.

(2) **NOTIFICATION.**—If the Postal Service determines that any information must be excluded under paragraph (1), the Postal Service shall, at the time of submitting the report, notify the President, the Committee on Oversight and Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Postal Regulatory Commission in writing of its determination and describe in detail the information for which confidentiality is sought and the reasons therefor.

(3) **ANNEXES.**—The Postal Service shall submit to the persons and entities notified under paragraph (2) any information excluded under paragraph (1) in an annex that shall be treated as confidential in accordance with paragraph (4).

(4) **TREATMENT.**—No person may, with respect to any information which such person receives under paragraph (4)—

(A) use such information for purposes other than the purposes for which it is supplied; or

(B) permit any person or entity other than a person or entity notified under paragraph (2), or the staff thereof, to have access to any such information.

(d) **TERMINATION.**—This subsection shall terminate on the date that is five years after the date on which the first report required by this section is submitted.

SEC. 208. POSTAL SERVICE TRANSPORTATION SELECTION POLICY REVISIONS.

Section 101(f) of title 39, United States Code, is amended—

(1) by striking “prompt and economical” and inserting “prompt, economical, consistent, and reliable”;

(2) by inserting after “all mail” the following: “in a manner that increases operational efficiency and reduces complexity”;

(3) by inserting “cost-effective” after “to achieve”; and

(4) by inserting “also” after “Nation shall”.

SEC. 209. USPS INSPECTOR GENERAL OVERSIGHT OF POSTAL REGULATORY COMMISSION.

(a) **IN GENERAL.**—Section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (a)(2), by striking “the Postal Regulatory Commission,”; and

(2) in subsection (f)(2)—

(A) by striking “(2) In carrying” and inserting “(2)(A) In carrying”; and

(B) by adding at the end the following:

“(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall function as the Inspector General for the Postal Regulatory Commission, and shall have equal responsibility over the United States Postal Service and the Postal Regulatory

Commission. The Commission shall comply with the Inspector General's oversight as if the Commission were a designated Federal entity under paragraph (a)(2) of this section."

(b) SAVINGS PROVISION.—

(1) LEGAL DOCUMENTS.—Any order, determination, rule, regulation, permit, grant, loan, contract, agreement, certificate, license, or privilege that has been issued, made, granted, or allowed to become effective that is in effect on the effective date of this section shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law.

(2) PROCEEDINGS.—This section and the amendments made by this section shall not affect any proceeding pending on the effective date of this section before an office transferred by either such subsection, but such proceeding shall be continued. Nothing in this paragraph shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section or such amendments had not been enacted.

(3) SUITS.—This section and the amendments made by this section shall not affect any suit commenced before the effective date of this section, and in any such suit, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section or such amendments had not been enacted.

(4) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document relating to the Inspector General of the Postal Regulatory Commission shall be deemed to refer to the Inspector General of the United States Postal Service.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 504 of title 39, United States Code, is amended by striking subsection (h).

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

SUMMARY AND PURPOSE OF LEGISLATION

H.R. 3076, the Postal Service Reform Act, eliminates direct financial liabilities of the United States Postal Service by requiring eligible Postal Service retirees to enroll in Medicare and repealing the requirement to prefund retiree health benefits. Additionally, H.R. 3076 requires transparency in Postal Service performance data, codifies aspects of the Postal Service's operations, and requires additional reporting on and reviews of various facets of the Postal Service's operations and finances.

BACKGROUND AND NEED FOR LEGISLATION

A number of factors have caused the Postal Service's financial condition to deteriorate over the past decade, including a decline in first-class mail, expenses increasing more rapidly than revenues, and the requirement to pre-fund retiree health benefits. The Postal Service is expected to provide affordable, quality, and universal postal service to all parts of the country while remaining self-sufficient. As a result of being unable to fund its current level of services and financial obligations from its revenues, the Postal Service faces challenges in maintaining sufficient cash on hand to conduct its operations. For these reasons, the Government Accountability Office (GAO) has placed the Postal Service's financial condition on its "high-risk" list since 2009. The provisions included in this bill are essential to helping the Postal Service remain financially viable going forward.

SECTION-BY-SECTION ANALYSIS

TITLE I

Section 101—Postal Service health benefits program (i.e., Medicare Integration)

While Postal Service employees currently pay into Medicare and are eligible to enroll when they reach the age 65, roughly 25% of the Postal Service workforce never enrolls. Requiring Postal Service employees to enroll in Medicare when they become eligible to do so would help improve the long-term financial viability of the Postal Service. This requirement already exists for most private sector employees. If all Postal Service employees were required to enroll in Medicare when eligible, the Postal Service estimates that it would save roughly \$36 billion over a 10-year period.

This section creates new Postal Service-only medical plans with a separate risk pool from the current Federal Employee Health Benefit (FEHB) plans. While the majority of existing employees would be required to enroll in these plans and enroll in Medicare when they become eligible, there are several exceptions for current annuitants and employees approaching retirement to protect them from being forced into changes to their health benefits late in their careers or retirement. Current annuitants would retain the option of not enrolling in Medicare, as would current employees age 64 or older.

Section 102—USPS Fairness Act (i.e., Eliminating requirement to pre-fund retiree health benefits)

In 2006, Congress enacted the Postal Accountability and Enhancement Act (PAEA) (P.L. 109–435). The PAEA required the Postal Service “to start fully ‘prefunding’ retiree health benefits” by making “annual prefunding payments to a newly established fund to build up funds to cover the Postal Service’s share of future retiree health benefit costs” for all employees—not just those who are eligible to retire.¹ No other federal agency is required to pre-fund retiree health benefits, and it is not a normal practice in the private sector.

The PAEA required the Postal Service to pay annual amounts ranging from \$5.4 billion to \$5.8 billion into the Postal Service Retiree Health Benefit Fund between 2007 and 2016. At the end of that 10-year period, these pre-funding payments ended, and the Postal Service was allowed to return to lower annual payments based on a 40-year amortization schedule for Postal Service retiree health benefits and the “normal costs” of retiree health benefits for current employees.²

Before 2006, the Postal Service maintained a pay-as-you-go system for retiree health benefits, under which it paid its annual share of premiums for employees participating in the FEHB Program. Since 2007 the Postal Service has been struggling to comply with this requirement to make billions of dollars of payments each year to pre-fund retiree health benefits.

¹ Government Accountability Office, *Postal Retiree Health Benefits: Unsustainable Finances Need to be Addressed* (Aug. 2018) (GAO–18–602) (online at www.gao.gov/assets/700/694188.pdf).

²*Id.*

The PAEA was enacted in 2006 after the Postal Service had earned “modest profits from FY2004 through FY2006,” with the expectation that the Postal Service would continue to be on relatively sound financial footing.³ Unfortunately, that has not been the case. The Postal Service currently has approximately \$35 billion in unfunded retiree health benefit liabilities and has not paid into the fund for a decade. Eliminating this requirement would eliminate the liability and improve the Postal Service’s financial picture.

This section eliminates the prefunding requirement put in place by the PAEA, which eliminates these outstanding debts from the Postal Service’s books. It requires the Postal Service to pay a single yearly “top-up” amount to account for the costs incurred by actual usage by Postal Service annuitants. These payments will increase the longevity of the Retiree Health Benefit Fund while still protecting the Postal Service from carrying substantial unpaid liabilities on its books.

Section 103—Non-postal services

This section enables the Postal Service to enter into agreements with state, local, and tribal governments to provide non-postal services to increase revenue for the Postal Service. Services must provide enhanced value, not detract from postal services, and provide reasonable contributions to the institutional costs of the Postal Service. The bill would require any new program entered into by the Postal Service to be approved by the Postal Service Board of Governors.

TITLE II

Section 201—Performance targets and transparency

The COVID-19 pandemic caused widespread Postal Service workforce sick leave and led to an unprecedented rise in package volume due to a rapid increase in e-commerce demand. The Postal Service also implemented operational changes in mid-July 2020 that negatively impacted service performance. The combination of these events exacerbated existing problems within the Postal Service’s operations and further stressed an already strained delivery system. Overall delivery performance remained historically low for 2020 and the early part of 2021, with on-time delivery of first-class mail falling below 63% the week before the 2020 holiday season. While service has rebounded to around 89% of first-class mail being delivered on time as of the week ending on July 3, 2021, first-class mail service has still not returned to pre-July 2020 levels.

This section would require the Postal Service to establish and provide the Postal Regulatory Commission (PRC) with reasonable performance targets based on its service standards at least 60 days before the start of each fiscal year. The Postal Service would also be required to provide the PRC with the previous fiscal year’s performance targets to allow the PRC to review them for compliance.

The Postal Service would also be required to post weekly updates on its service performance at national, regional, and local levels for market dominant mail products on a publicly available online dashboard. This provision would ensure greater performance trans-

³ Congressional Research Service, *The Postal Accountability and Enhancement Act: Overview and Issues for Congress* (Dec. 14, 2009) (online at <https://fas.org/sgp/crs/misc/R40983.pdf>).

parency and enable Congress, the public, and industry stakeholders to hold the Postal Service more accountable.

Section 202—Integrated delivery network

Since 1983, the Financial Services and General Government Appropriations Act has included an annual rider requiring the Postal Service to deliver mail six days per week. This section of the bill would put that requirement in statute. The section includes an exception allowing the Postal Service to not deliver six days a week during weeks with a federal holiday or during unforeseen emergencies such as natural disasters.

In addition, this section would require the Postal Service to operate using an integrated network for both mail and packages.

Section 203—Review of Postal Service cost attribution guidelines

This section would require the PRC to perform a review of the allocation of Postal Service costs that are attributed to competitive and market-dominant products to ensure that these allocations are accurate. The review shall consider the underlying methodologies used to determine cost allocation and, if necessary, consider options to revise these methodologies. If the PRC determines that revisions are necessary, it shall make necessary modifications. These changes will be subject to a public notice and comment period.

Section 204—Rural newspaper sustainability

Local newspapers sent within the same county in which they are printed can currently take advantage of a statutory provision that allows a special rate lower than first-class mail to send sample copies. Currently, up to 10% of these newspapers can be sent to non-subscribers. This section would raise this number to up to 50%. This would allow local newspapers to increase revenue through advertising and reach possible subscribers at a time when local newspapers are disappearing at a rapid rate.

Section 205—Funding of Postal Regulatory Commission

The PRC currently has its funding, which is derived via a transfer from the Postal Service Fund, approved through the annual appropriations process, and PRC cannot operate when the federal government shuts down. However, the Postal Service continues to operate during a government shutdown, as it does not receive federal funding. As a result, the Postal Service continues operating without oversight from its federal regulator during a government shutdown.

This section would allow the PRC to submit its yearly budget request directly to the Postal Service Board of Governors, which would then have the authority to approve the budget with or without adjustments, but not make changes to any allocations within the budget. Should the Board of Governors make changes to the overall budget request, the PRC would make changes to suballocations within the request to ensure compliance. The PRC's budget would be paid directly out of the Postal Service Fund, allowing it to continue operating regardless of the federal government's appropriations status.

Section 206—Flats operations study and reform

This section would require the PRC, in consultation with the United States Postal Service Inspector General (IG), to conduct a study to identify the causes of inefficiencies in the collection, sorting, transportation, and delivery of flats—a category which most prominently includes magazines. Within 180 days after the enactment of this bill, the PRC would have to submit to Congress and the Postmaster General a report on the findings of this study.

In addition, within six months of completion of the PRC study, the Postal Service would be required to develop and implement a plan to remedy inefficiencies identified by the study. The implementation plan would have to be approved by the PRC, and a period of public comment would be required.

Section 207—Reporting requirements

This section would require the Postal Service to submit reports to Congress every six months on a number of Postal Service operations, as well as its financial performance, including the actual and projected volume of mail and packages, the effects of any rate changes, the allocation of employees in career and non-career status, and planned and actual investments by the Postal Service in its network. These reports will help enable Congress to know what changes are being made and their impact on the Postal Service.

Section 208—Postal Service transportation selection

This section would make minor adjustments to the considerations the Postal Service must make when deciding which modes of transportation should be used to deliver mail. Specifically, the section would add the requirement that transportation not only be prompt and economical but also consistent and reliable.

Section 209—USPS Inspector General oversight of Postal Regulatory Commission

There is currently a Postal Service Inspector General as well as an Inspector General for the PRC. This section would create a single Inspector General of the United States Postal Service with authority over both the Postal Service and the PRC.

LEGISLATIVE HISTORY

H.R. 3076, the Postal Service Reform Act, was introduced by Chairwoman Maloney and Ranking Member Comer on May 11, 2021. The Committee held a legislative hearing on an earlier version of this bill on February 24, 2021. The Committee considered H.R. 3076 at a business meeting on May 13, 2021, and ordered the bill as amended favorably reported by voice vote.

COMMITTEE CONSIDERATION

On May 13, 2021, the Committee met in open session and, with a quorum being present, ordered the bill as amended favorably reported by voice vote.

ROLL CALL VOTES

There were no roll call votes during consideration of H.R. 3076.

EXPLANATION OF AMENDMENTS

Chairwoman Maloney offered an amendment in the nature of a substitute (ANS) that made technical changes to the bill. The ANS passed by voice vote.

LIST OF RELATED COMMITTEE HEARINGS

The Committee on Oversight and Reform held a hearing on February 24, 2021, entitled “Legislative Proposals to Put the Postal Service on Sustainable Financial Footing” at which a draft version of the legislation was discussed.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the previous sections of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goal or objective of this bill is to improve the financial position of the Postal Service while increasing transparency and accountability of the Postal Service’s operations, finances, and performance.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill would change the structure of health benefits offered, without making changes to who is eligible to receive health benefits, and would make changes to financial, operational, and service requirements of the Postal Service. As such, this bill does not relate to employment or access to public services and accommodations.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII, no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

This bill does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

FEDERAL ADVISORY COMMITTEE ACT

This bill does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget Act of 1974, the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act, the Committee has requested, but not yet received, a cost estimate of the bill prepared by the Director of the Congressional Budget Office.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act, the Committee has requested, but not yet received, a cost estimate of the bill prepared by the Director of the Congressional Budget Office.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

* * * * *

SUBPART G—INSURANCE AND ANNUITIES

* * * * *

CHAPTER 89—HEALTH INSURANCE

Sec.

8901. Definitions.

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8903c. *Postal Service Health Benefits Program.*

* * * * *

§ 8903. Health benefits plans

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.

(2) INDEMNITY BENEFIT PLAN.—One Government-wide plan, offering two levels of benefits, under which a carrier agrees to pay certain sums of money, not in excess of the actual expenses incurred, for benefits of the types described by section 8904(2) of this title.

(3) EMPLOYEE ORGANIZATION PLANS.—Employee organization plans which offer benefits of the types referred to by section 8904(3) of this title, which are sponsored or underwritten, and are administered, in whole or substantial part, by employee organizations described in section 8901(8)(A) of this title, which are available only to individuals, and members of their families, who at the time of enrollment are members of the organization.

(4) COMPREHENSIVE MEDICAL PLANS.—

(A) GROUP-PRACTICE PREPAYMENT PLANS.—Group-practice prepayment plans which offer health benefits of the types referred to by section 8904(4) of this title, in whole or in substantial part on a prepaid basis, with professional services thereunder provided by physicians practicing as a group in a common center or centers. The group shall include at least 3 physicians who receive all or a substantial part of their professional income from the prepaid funds and who represent 1 or more medical specialties appropriate and necessary for the population proposed to be served by the plan.

(B) INDIVIDUAL-PRACTICE PREPAYMENT PLANS.—Individual-practice prepayment plans which offer health services in whole or substantial part on a prepaid basis, with professional services thereunder provided by individual physicians who agree, under certain conditions approved by the Office, to accept the payments provided by the plans as full payment for covered services given by them

including, in addition to in-hospital services, general care given in their offices and the patients' homes, out-of-hospital diagnostic procedures, and preventive care, and which plans are offered by organizations which have successfully operated similar plans before approval by the Office of the plan in which employees may enroll.

(C) MIXED MODEL PREPAYMENT PLANS.—Mixed model prepayment plans which are a combination of the type of plans described in subparagraph (A) and the type of plans described in subparagraph (B).

* * * * *

§ 8903c. Postal Service Health Benefits Program

(a) DEFINITIONS.—*In this section—*

(1) the term “covered Medicare individual” means an individual who is entitled to benefits under Medicare part A, but excluding an individual who is eligible to enroll under such part under section 1818 or 1818A of the Social Security Act (42 U.S.C. 1395i–2, 1395i–2a);

(2) the term “initial contract year” means the contract year beginning in January of 2023;

(3) 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 initial contract year;

(4) the term “Medicare part A” means part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(5) the term “Medicare part B” means part B of title XVIII of the Social Security Act (42 U.S.C. 1395j 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 pursuant to the requirements of section 8906(g)(2);

(9) the term “Postal Service employee” means an employee of the Postal Service enrolled in a health benefits plan under this chapter whose Government contribution is paid by the Postal Service;

(10) the term “Postal Service Medicare covered annuitant” means an individual who—

(A) is a Postal Service annuitant; and

(B) is a covered Medicare individual;

(11) the term “Program” means the Postal Service Health Benefits Program established under subsection (c) within the Federal Employees Health Benefit Program;

(12) the term “Program plan” means a health benefits plan offered under the Program; and

(13) the terms set forth in section 8901 shall apply.

(b) APPLICATION.—*The requirements under this section shall—*

(1) apply to the initial contract year and each contract year thereafter; and

(2) supersede any other provision of this chapter inconsistent with such requirements, as determined by the Office of Personnel Management.

(c) **ESTABLISHMENT OF THE POSTAL SERVICE HEALTH BENEFITS PROGRAM.**—

(1) **IN GENERAL.**—*The Office shall establish the Postal Service Health Benefits Program under which the Office contracts with carriers to offer health benefits plans as described under this section. Except as otherwise provided in this section, any such contract shall be consistent with the requirements of this chapter for contracts under section 8902 with carriers to offer health benefits plans other than under this section. The Program shall—*

(A) *to the greatest extent practicable, include plans offered by—*

(i) *each carrier for which the total enrollment in the plans provided under this chapter includes, in the contract year beginning in January 2022, 1,500 or more enrollees who are Postal Service employees or Postal Service annuitants; and*

(ii) *any other carrier determined appropriate by the Office;*

(B) *be available for participation by Postal Service employees and Postal Service annuitants, in accordance with subsection (d);*

(C) *provide for enrollment in a plan as an individual, for self plus one, or for self and family; and*

(D) *not be available for participation by an individual who is not a Postal Service employee or Postal Service annuitant (except as a member of family of such an employee or annuitant or as provided under paragraph (5)).*

(2) **SEPARATE POSTAL SERVICE RISK POOL.**—*The Office shall ensure that each Program plan includes rates that reasonably and equitably reflect the cost of benefits provided to a risk pool consisting solely of Postal Service employees, Postal Service annuitants, and covered members of family of such employees and annuitants (regardless of the health plan, coverage, or benefit program in which such an employee, annuitant, or member of family is enrolled), taking into specific account the change in benefits cost for the Program plan due to the Medicare enrollment requirements under subsection (e) and any savings or subsidies resulting from subsection (f).*

(3) **ACTUARIALY EQUIVALENT COVERAGE.**—*The Office shall ensure that each carrier participating in the Postal Service Health Benefits Program provides coverage under the Program plans offered by the carrier that is actuarially equivalent, as determined by the Office, to the coverage that the carrier provides under the health benefits plans offered by the carrier under this chapter that are not Program plans.*

(4) **APPLICABILITY OF FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM REQUIREMENTS.**—*Except as otherwise set forth in this section, all provisions of this chapter applicable to health benefits plans offered by carriers under section 8903 or 8903a shall apply to plans offered under the Program.*

(5) *APPLICATION OF CONTINUATION COVERAGE.*—In accordance with rules established by the Office, section 8905a shall apply to health benefits plans offered under this section in the same manner as such section applies to other health benefits plans offered under this chapter.

(d) *ELECTION OF COVERAGE.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), 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 of this section; and

(B) may not enroll in any other health benefits plan offered under any other section of this chapter.

(2) *EXCEPTIONS.*—

(A) *LACK OF GEOGRAPHIC COVERAGE.*—An individual who is a Postal Service employee or Postal Service annuitant may enroll in a health benefits plan offered under any other section of this chapter if the individual resides in a geographic area for which there is not a Program plan in which the individual may enroll.

(B) *ANNUITANTS AS OF PROGRAM INCEPTION.*—

(i) *CURRENT MEDICARE COVERED ANNUITANTS.*—

(I) *IN GENERAL.*—Subject to subclause (II), in the case of an individual who, as of January 1, 2023, is a Postal Service Medicare covered annuitant who has not enrolled in both Medicare part A and Medicare part B, such individual may enroll in a health benefits plan offered under any other section of this chapter, and may not enroll in a Program plan.

(II) *PROGRAM PLAN ENROLLMENT FOLLOWING MEDICARE PARTS A AND B ENROLLMENT.*—In the case of an individual described in subclause (I) who subsequent to January 1, 2023, is enrolled in both Medicare part A and Medicare part B, beginning with the first contract year beginning after the date such individual is enrolled in both Medicare part A and Medicare part B, subclause (I) shall no longer apply to such individual and such individual may receive health benefits under this chapter only through a Program plan.

(ii) *PRE-MEDICARE ANNUITANTS.*—

(I) *IN GENERAL.*—Subject to subclause (II), an individual who, as of January 1, 2023, is a Postal Service annuitant and is not a Postal Service Medicare annuitant (for a reason other than eligibility to enroll in Medicare part A under section 1818 or 1818A of the Social Security Act) may enroll in either a Program plan or in a health benefits plan offered under any other section of this chapter.

(II) *EXCEPTION.*—In the case of an individual described in subclause (I) who enrolls in a Program plan for any contract year beginning on or after the date on which the individual becomes a Postal

Service Medicare covered annuitant, beginning with such contract year, subclause (I) shall no longer apply to the individual and the individual may receive health benefits under this chapter only through enrollment in a Program plan.

(C) CERTAIN EMPLOYEES AS OF PROGRAM INCEPTION.—

(i) LEGACY COVERAGE.—A Postal Service employee who is enrolled in a health benefits plan under this chapter for the contract year immediately preceding the initial contract year that is not a health benefits plan offered by an initial participating carrier may enroll in either a Program plan or in a health benefits plan offered under any other section of this chapter, except that—

(I) if the Postal Service employee changes enrollment to a different health benefits plan under this chapter during the open season for the initial contract year, or after the start of the initial contract year, the Postal Service employee may only enroll in a Program plan;

(II) if the health benefits plan in which such employee is enrolled for such contract year becomes available as a Program plan, the Postal Service employee may only enroll in a Program plan; and

(III) 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 Program plan during the open season that is—

(aa) being held when the Postal Service employee becomes a Postal Service annuitant; or

(bb) 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.

(ii) CURRENT EMPLOYEES AGED 64 AND OVER.—

(I) IN GENERAL.—Subject to subclause (II), an individual who, as of January 1, 2023, is a Postal Service employee and is at least 64 years of age may enroll in either a Program plan or in a health benefits plan offered under any other section of this chapter.

(II) EXCEPTION.—In the case of an individual described in subclause (I) who enrolls in a Program plan for any contract year beginning on or after the date on which the individual becomes a Postal Service Medicare covered annuitant, beginning with such contract year, subclause (I) shall no longer apply to the individual and the individual may receive health benefits under this chapter only through enrollment in a Program plan.

(D) CERTAIN OTHER ANNUITANTS.—

(i) ANNUITANTS AND FAMILY MEMBERS EXCLUDED FROM PREMIUM-FREE MEDICARE PART A.—

(I) *IN GENERAL.*—Subject to subclause (II), a Postal Service annuitant who is eligible to enroll in Medicare Part A under section 1818 or 1818A of the Social Security Act may enroll in either a Program plan or in a health benefits plan offered under any other section of this chapter if the annuitant—

(aa) is eligible to enroll in Medicare part A under section 1818 or 1818A of the Social Security Act; or

(bb) includes in the annuitant's plan enrollment one or more family members who are eligible to enroll in Medicare part A under section 1818 or 1818A of such Act.

(II) *EXCEPTION.*—In the case of an annuitant described in subclause (I) who enrolls in a Program plan for any contract year beginning on or after the date on which the annuitant or any member of family covered by the enrollment becomes eligible to enroll in Medicare part A, beginning with such contract year, subclause (I) shall no longer apply to the annuitant and the annuitant may receive health benefits under this chapter only through enrollment in a Program plan.

(ii) *LIMITED OR REDUNDANT COVERAGE.*—An individual who is a Postal Service annuitant may enroll either in a Program plan (subject to subsection (e) of this section and to sections 226(j) and 1837(o)(2) of the Social Security Act) or in a health benefits plan offered under any other section of this chapter for any contract year in which the annuitant or member of family covered by the enrollment, respectively, is a covered Medicare individual and—

(I) the annuitant or family member, respectively, resides in an area where the Office has determined that no Medicare providers are available;

(II) the annuitant receives comprehensive medical coverage provided by the Department of Veterans Affairs under subchapter II of chapter 17 of title 38, United States Code; or

(III) the annuitant receives comprehensive medical coverage provided by the Indian Health Service under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(iii) *REGULATIONS.*—Not later than 90 days after the date of enactment of this section, the Office shall, in consultation with the Secretary of Health and Human Services, the Secretary of Veterans Affairs, and the Postmaster General, promulgate any regulations necessary to implement this subparagraph.

(e) *REQUIREMENT OF MEDICARE ENROLLMENT FOR CERTAIN ANNUITANTS AND THEIR FAMILY MEMBERS.*—

(1) *ANNUITANTS.*—Except as provided under subsection (d)(2), a Postal Service Medicare covered annuitant may not enroll

under a Program plan unless the annuitant is enrolled in both Medicare part A and Medicare part B.

(2) *MEDICARE COVERED FAMILY MEMBERS.*—In the case of a Postal Service annuitant who is required under this subsection to enroll in Medicare part A and Medicare part B to enroll under the Program, if a member of family of such Postal Service annuitant is a covered Medicare individual or is eligible to enroll in Medicare Part A under section 1818 or 1818A of the Social Security Act, that member of family may not enroll under the Program as a member of family of the Postal Service annuitant unless that member of family is enrolled in both Medicare part A and Medicare part B.

(3) *PROCESS FOR COORDINATED ELECTION OF MEDICARE ENROLLMENT.*—The Office shall establish a process under which—

(A) Postal Service annuitants and members of family who are subject to the requirements of paragraph (1) or (2)—

(i) are informed, prior to enrollment under this section, of such requirement; and

(ii) receive requests for any additional information necessary for enrollment in writing; and

(B) the Office provides the Secretary of Health and Human Services and the Commissioner of Social Security in a timely manner with such information with respect to such annuitants and members of family and such election as may be required to effect their enrollment and coverage under Medicare part A and Medicare part B and this section in a timely manner, including to effect deemed enrollments, if applicable under sections 226(j) and 1837(o) of the Social Security Act, for such continuous period as such annuitant or member of family involved otherwise maintains eligibility for enrollment under Medicare part A and Medicare part B, to have elected to be enrolled under such part (in accordance with such sections) in connection with the enrollment in a Program plan under this section.

(f) *MEDICARE COORDINATION.*—

(1) *IN GENERAL.*—The Office shall require each Program plan to provide benefits for covered Medicare individuals (and individuals eligible to enroll in Medicare part A pursuant to section 1818 or 1818A of the Social Security Act) pursuant to the same coordination of benefits method used in connection with plans offered under any other section of this chapter.

(2) *MEDICARE PART D PRESCRIPTION DRUG BENEFITS.*—The Office shall require each Program plan to provide prescription drug benefits to any Postal Service annuitant and member of family of such annuitant who is a part D eligible individual (as defined in section 1860D-1(a)(3)(A) of the Social Security Act) through employment-based retiree health coverage (as defined in section 1860D-22(c)(1) of such Act) through a prescription drug plan (as defined in section 1860D-41(a)(14) of such Act).

(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 paragraphs (2) and (3).

(2) *WEIGHTED AVERAGE CALCULATION.*—Not later than October 1 of each year (beginning with 2022), the Office shall determine the weighted average of the rates established pursuant to subsection (c)(2) for Program 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.

(3) *WEIGHTING IN COMPUTING RATES FOR INITIAL CONTRACT YEAR.*—In determining such weighted average of the rates for the initial contract year, the Office shall take into account (for purposes of section 8906(a)(2)) the enrollment of Postal Service employees and annuitants in the health benefits plans offered by the initial participating carriers as of March 31, 2022.

(h) *RESERVES.*—

(1) *SEPARATE RESERVES.*—

(A) *IN GENERAL.*—The Office shall ensure that each Program plan maintains separate reserves (including a separate contingency reserve) with respect to the enrollees in the Program plan in accordance with section 8909. All provisions of section 8909 relating to contingency reserves shall apply to contingency reserves of Program plans in the same manner as to those of other plans under this chapter, except to the extent that such provisions are inconsistent with the requirements of this subsection.

(B) *REFERENCES.*—For purposes of the 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 Program plan shall be credited with a proportionate amount of the funds in the reserves for health benefits plans offered by the carrier.

(2) *DISCONTINUATION OF PROGRAM PLAN.*—In applying section 8909(e) relating to a Program 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 Program 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.

(j) *HEALTH BENEFITS EDUCATION PROGRAM.*—

(1) Not later than 180 days after the date of enactment of this section, the Postal Service shall establish a Health Benefits Education Program. Under the Program, the Postal Service shall—

(A) notify annuitants and employees of the Postal Service about the Postal Service Health Benefits Program established under subsection (c)(1);

(B) provide information regarding the Postal Service Health Benefits Program to such annuitants and employees, including a description of the health care options available under such Program, the enrollment provisions of subsection (d), and the requirement that annuitants and their

family members be enrolled in Medicare under subsection (e); and

(C) in coordination with the Centers for Medicare & Medicaid Services and the Commissioner of Social Security, respond and provide answers to any inquiry from such employees and annuitants about the Postal Service Health Benefits Program or Medicare enrollment.

(2) The Office shall timely provide the Postal Service with such information as the Postal Service determines to be necessary to conduct the Medicare Education Program.

* * * * *

§ 8909a. Postal Service Retiree Health [Benefit] Benefits Fund

(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund which is administered by the Office of Personnel Management.

(b) The Fund is available without fiscal year limitation for payments required under section 8906(g)(2)(A).

(c) 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. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

[(d)(1) Not later than June 30, 2007, and by June 30 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.

[(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.

[(3)(A) The United States Postal Service shall pay into such Fund—

[(i) \$5,400,000,000, not later than September 30, 2007;

[(ii) \$5,600,000,000, not later than September 30, 2008;

[(iii) \$1,400,000,000, not later than September 30, 2009;

[(iv) \$5,500,000,000, not later than September 30, 2010;

[(v) \$5,500,000,000, not later than August 1, 2012;

- [(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, 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).

[(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.

[(5)(A)(i) Any computation or other determination of the Office under this subsection shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

[(ii) Upon receiving a request under clause (i), the Commission shall promptly procure the services of an actuary, who shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of healthcare insurance obligations, to conduct a review in accordance with generally accepted actuarial practices and principles and to provide a report to the Commission containing the results of the review. The Commission, upon determining that the report satisfies the requirements of this subparagraph, shall approve the report, with any comments it may choose to make, and submit it with any such comments to the Postal Service, the Office of Personnel Management, and Congress.

[(B) Upon receiving the report under subparagraph (A), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

[(6) After consultation with the United States Postal Service, the Office shall promulgate any regulations the Office determines necessary under this subsection.】

(d)(1) Not later than June 30, 2024, and by June 30 of each succeeding year, the Office shall compute, for the most recently concluded fiscal year, the difference between—

(A) any Government contributions required to be paid from the Fund under section 8906(g)(2)(A); and

(B) the net claims costs under the enrollment of the individuals described in section 8906(g)(2)(A).

(2) Not later than September 30 of each year in which the Office makes a computation under paragraph (1), the United States Postal Service shall pay into the Fund the difference computed in such paragraph.

(e) Any computation of the liability of the Fund required by law shall be based on—

(1) the net present value of the future net claims costs with respect to—

- (A) current annuitants of the United States Postal Service as of the end of the fiscal year ending on September 30 of the relevant reporting year; and
- (B) current employees of the United States Postal Service who would, as of September 30 of that year,—
 - (i) be eligible to become annuitants pursuant to section 8901(3)(A); and
 - (ii) if they were retired as of that date, meet the criteria for coverage of annuitants under section 8905(b);
- (2) 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
- (3) any other methods and assumptions, including a health care cost trend rate, that the Director of the Office determines to be appropriate.
- (f) After consultation with the United States Postal Service, the Office shall promulgate any regulations the Office determines necessary under this subsection.
- (g) For purposes of this section, the term “net claims costs” shall mean the difference between—
 - (1) the sum of—
 - (A) the costs incurred by a carrier in providing health services to, paying for health services provided to, or reimbursing expenses for health services provided to, annuitants of the United States Postal Service and any other persons covered under the enrollment of such annuitants; and
 - (B) an amount of indirect expenses reasonably allocable to the provision, payment, or reimbursement described in subparagraph (A), as determined by the Office; and
 - (2) the amount withheld from the annuity of or paid by annuitants of the United States Postal Service under section 8906.

* * * * *

SOCIAL SECURITY ACT

* * * * *

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

* * * * *

ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS

SEC. 226. (a) Every individual who—

- (1) has attained age 65, and
- (2)(A) is entitled to monthly insurance benefits under section 202, would be entitled to those benefits except that he has not filed an application therefor (or application has not been made for a benefit the entitlement to which for any individual is a condition of entitlement therefor), or would be entitled to such benefits but for the failure of another individual, who meets all the criteria of entitlement to monthly insurance benefits, to meet such criteria throughout a month, and, in conformity

with regulations of the Secretary, files an application for hospital insurance benefits under part A of title XVIII,

(B) is a qualified railroad retirement beneficiary, or

(C)(i) would meet the requirements of subparagraph (A) upon filing application for the monthly insurance benefits involved if medicare qualified government employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and (ii) files an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the condition specified in paragraph (2), beginning with the first month after June 1966 for which he meets the conditions specified in paragraphs (1) and (2).

(b) Every individual who—

(1) has not attained age 65, and

(2)(A) is entitled to, and has for 24 calendar months been entitled to, (i) disability insurance benefits under section 223 or (ii) child's insurance benefits under section 202(d) by reason of a disability (as defined in section 223(d)) or (iii) widow's insurance benefits under section 202(e) or widower's insurance benefits under section 202(f) by reason of a disability (as defined in section 223(d)), or

(B) is, and has been for not less than 24 months, a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974, or

(C)(i) has filed an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII pursuant to this subparagraph, and

(ii) would meet the requirements of subparagraph (A) (as determined under the disability criteria, including reviews, applied under this title), including the requirement that he has been entitled to the specified benefits for 24 months, if—

(I) medicare qualified government employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and

(II) the filing of the application under clause (i) of this subparagraph were deemed to be the filing of an application for the disability-related benefits referred to in clause (i), (ii), or (iii) of subparagraph (A),

shall be entitled to hospital insurance benefits under part A of title XVIII for each month beginning with the later of (I) July 1973 or (II) the twenty-fifth month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending (subject to the last sentence of this subsection) with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him, or if earlier, with the month before the month in which he attains age 65. In applying the previous sentence in the case of an individual described in paragraph (2)(C), the "twenty-fifth month of his entitlement" refers to the first month after the twenty-fourth month of entitlement to specified benefits referred to in paragraph (2)(C) and "notice of termination of such entitlement" refers to a notice that the individual would no longer be determined to be entitled to such

specified benefits under the conditions described in that paragraph. For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, and throughout all of which such individual would have been entitled to monthly insurance benefits under title II or as a qualified railroad retirement beneficiary had such individual been unable to engage in substantial gainful activity, but not in excess of 78 such months. In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the term "36 months" in the second sentence of section 223(a)(1), in section 202(d)(1)(G)(i), in the last sentence of section 202(e)(1), and in the last sentence of section 202(f)(1) shall be applied as though it read "15 months".

(c) For purposes of subsection (a)—

(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part A of title XVIII on his behalf for inpatient hospital services, post-hospital extended care services, and home health services (as such terms are defined in part C of title XVIII) furnished him in the United States (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1814(f)) during such month; except that (A) no such payment may be made for post-hospital extended care services furnished before January 1967, and (B) no such payment may be made for post-hospital extended care services unless the discharge from the hospital required to qualify such services for payment under part A of title XVIII occurred (i) after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later, or (ii) if he was entitled to hospital insurance benefits pursuant to subsection (b), at a time when he was so entitled; and

(2) an individual shall be deemed entitled to monthly insurance benefits under section 202 or section 223, or to be a qualified railroad retirement beneficiary, for the month in which he died if he would have been entitled to such benefits, or would have been a qualified railroad retirement beneficiary, for such month had he died in the next month.

(d) For purposes of this section, the term "qualified railroad retirement beneficiary" means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 7(d) of the Railroad Retirement Act of 1974. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 7(d) of the Railroad Retirement Act of 1974.

(e)(1)(A) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of widows and widowers described in paragraph (2)(A)(iii) thereof—

(i) the term “age 60” in sections 202(e)(1)(B)(ii), 202(e)(4), 202(f)(1)(B)(ii), and 202(f)(4) shall be deemed to read “age 65”; and

(ii) the phrase “before she attained age 60” in the matter following subparagraph (F) of section 202(e)(1) and the phrase “before he attained age 60” in the matter following subparagraph (F) of section 202(f)(1) shall each be deemed to read “based on a disability”.

(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93–66), shall be included as one of the 24 months for which such individual must have been entitled to widow’s or widower’s insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.

(2) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual under age 65 who is entitled to benefits under section 202, and who was entitled to widow’s insurance benefits or widower’s insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow’s or widower’s insurance benefits upon becoming entitled to such old-age insurance benefits), such individual shall be deemed to have continued to be entitled to such widow’s insurance benefits or widower’s insurance benefits for and after such first month.

(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b), any disabled widow aged 50 or older who is entitled to mother’s insurance benefits (and who would have been entitled to widow’s insurance benefits by reason of disability if she had filed for such widow’s benefits), and any disabled widower aged 50 or older who is entitled to father’s insurance benefits (and who would have been entitled to widower’s insurance benefits by reason of disability if he had filed for such widower’s benefits), shall, upon application for such hospital insurance benefits be deemed to have filed for such widow’s or widower’s insurance benefits.

(4) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual described in clause (iii) of subsection (b)(2)(A), the entitlement of such individual to widow’s or widower’s insurance benefits under section 202(e) or (f) by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 202(j)(4).

(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to

have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

(1) more than 60 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

(2) more than 84 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period, unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period.

(g) The Secretary and Director of the Office of Personnel Management shall jointly prescribe and carry out procedures designed to assure that all individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(5) are fully informed with respect to (1) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (2) the requirements for and conditions of such eligibility, and (3) the necessity of timely application as a condition of entitlement under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity under chapter 83 of title 5, United States Code, or under another similar Federal retirement program, and whose eligibility for such an annuity is or would be based on a disability.

(h) For purposes of applying this section in the case of an individual medically determined to have amyotrophic lateral sclerosis (ALS), the following special rules apply:

(1) Subsection (b) shall be applied as if there were no requirement for any entitlement to benefits, or status, for a period longer than 1 month.

(2) The entitlement under such subsection shall begin with the first month (rather than twenty-fifth month) of entitlement or status.

(3) Subsection (f) shall not be applied.

(i) For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 103 of the Social Security Amendments of 1965.

(j)(1) In the case of an individual who—

(A) on or after January 1, 2023, is—

(i) a Postal Service employee;

(ii) a Postal Service annuitant who is not a Postal Service Medicare covered annuitant; or

(iii) a member of family of a Postal Service employee or of a Postal Service annuitant and who is not described in section 1837(o)(1) of this Act; and

(B) enrolls in a Program plan under section 8903c of title 5, United States Code, such individual is deemed to be enrolled under this part, regardless of whether such individual has filed an application under subparagraph (A) or (C) of subsection (a)(2).

(2) Entitlement to hospital benefits under part A by reason of paragraph (1) begins as of—

(A) in the case of an individual who is a Postal Service employee or a Postal Service annuitant who is eligible to become a Postal Service Medicare covered annuitant, the date on which the individual becomes a Postal Service Medicare covered annuitant or the date of enrollment in a Program plan, whichever is later;

(B) in the case of an individual who is eligible to enroll under section 1818 or 1818A, the date on which the individual attains such eligibility or the date of enrollment in a Program plan whichever is later; and

(C) in the case of an individual who is described in paragraph (1)(A)(iii) and is eligible to become a covered Medicare individual, as of the first date the individual becomes a covered Medicare individual or the date of enrollment in a Program plan, whichever is later.

(3) The definitions in section 8903c(a) of title 5, United States Code, shall apply for purposes of this subsection.

(4) Nothing in this subsection shall be construed to deprive any individual of any other method or period of enrollment to which such individual is entitled under this section.

* * * * *

TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * *

PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

* * * * *

ENROLLMENT PERIODS

SEC. 1837. (a) An individual may enroll in the insurance program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this section.

(c) In the case of individuals who first satisfy paragraph (1) or (2) of section 1836(a) before March 1, 1966, the initial general enrollment period shall begin on the first day of the second month which begins after the date of enactment of this title and shall end on May 31, 1966. For purposes of this subsection and subsection (d), an individual who has attained age 65 and who satisfies paragraph (1) of section 1836(a) but not paragraph (2) of such section shall be treated as satisfying such paragraph (1) on the first day on which he is (or on filing application would have been) entitled to hospital insurance benefits under part A.

(d) In the case of an individual who first satisfies paragraph (1) or (2) of section 1836(a) on or after March 1, 1966, his initial enroll-

ment period shall begin on the first day of the third month before the month in which he first satisfies such paragraphs and shall end seven months later. Where the Secretary finds that an individual who has attained age 65 failed to enroll under this part during his initial enrollment period (based on a determination by the Secretary of the month in which such individual attained age 65), because such individual (relying on documentary evidence) was mistaken as to his correct date of birth, the Secretary shall establish for such individual an initial enrollment period based on his attaining age 65 at the time shown in such documentary evidence (with a coverage period determined under section 1838 as though he had attained such age at that time).

(e) There shall be a general enrollment period during the period beginning on January 1 and ending on March 31 of each year.

(f) Any individual—

(1) who is eligible under section 1836(a) to enroll in the medical insurance program by reason of entitlement to hospital insurance benefits as described in paragraph (1) of such section, and

(2) whose initial enrollment period under subsection (d) begins after March 31, 1973, and

(3) who is residing in the United States, exclusive of Puerto Rico,

shall be deemed to have enrolled in the medical insurance program established by this part.

(g) All of the provisions of this section shall apply to individuals satisfying subsection (f), except that—

(1) in the case of an individual who satisfies subsection (f) by reason of entitlement to disability insurance benefits described in section 226(b), his initial enrollment period shall begin on the first day of the later of (A) April 1973 or (B) the third month before the 25th month of such entitlement, and shall reoccur with each continuous period of eligibility (as defined in section 1839(d)) and upon attainment of age 65;

(2)(A) in the case of an individual who is entitled to monthly benefits under section 202 or 223 on the first day of his initial enrollment period or becomes entitled to monthly benefits under section 202 during the first 3 months of such period, his enrollment shall be deemed to have occurred in the third month of his initial enrollment period, and

(B) in the case of an individual who is not entitled to benefits under section 202 on the first day of his initial enrollment period and does not become so entitled during the first 3 months of such period, his enrollment shall be deemed to have occurred in the month in which he files the application establishing his entitlement to hospital insurance benefits provided such filing occurs during the last 4 months of his initial enrollment period; and

(3) in the case of an individual who would otherwise satisfy subsection (f) but does not establish his entitlement to hospital insurance benefits until after the last day of his initial enrollment period (as defined in subsection (d) of this section), his enrollment shall be deemed to have occurred on the first day of the earlier of the then current or immediately succeeding

general enrollment period (as defined in subsection (e) of this section).

(h) In any case where the Secretary finds that an individual's enrollment or nonenrollment in the insurance program established by this part or part A pursuant to section 1818 is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Federal Government, or its instrumentalities, the Secretary may take such action (including the designation for such individual of a special initial or subsequent enrollment period, with a coverage period determined on the basis thereof and with appropriate adjustments of premiums) as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

(i)(1) In the case of an individual who—

(A) at the time the individual first satisfies paragraph (1) or (2) of section 1836(a), is enrolled in a group health plan described in section 1862(b)(1)(A)(v) by reason of the individual's (or the individual's spouse's) current employment status, and

(B) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period, there shall be a special enrollment period described in paragraph (3). In the case of an individual not described in the previous sentence who has not attained the age of 65, at the time the individual first satisfies paragraph (1) of section 1836(a), is enrolled in a large group health plan (as that term is defined in section 1862(b)(1)(B)(iii)) by reason of the individual's current employment status (or the current employment status of a family member of the individual), and has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period, there shall be a special enrollment period described in paragraph (3)(B).

(2) In the case of an individual who—

(A)(i) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or (ii) is an individual described in paragraph (1)(A);

(B) has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(1)(A)(v) by reason of the individual's (or individual's spouse's) current employment status; and

(C) has not terminated enrollment under this section at any time at which the individual is not enrolled in such a group health plan by reason of the individual's (or individual's spouse's) current employment status,

there shall be a special enrollment period described in paragraph (3). In the case of an individual not described in the previous sentence who has not attained the age of 65, has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or is an individual described in the second sentence of paragraph (1), has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a large group health plan (as that term is defined in section 1862(b)(1)(B)(iii)) by reason of the indi-

vidual's current employment status (or the current employment status of a family member of the individual), and has not terminated enrollment under this section at any time at which the individual is not enrolled in such a large group health plan by reason of the individual's current employment status (or the current employment status of a family member of the individual), there shall be a special enrollment period described in paragraph (3)(B).

(3)(A) The special enrollment period referred to in the first sentences of paragraphs (1) and (2) is the period including each month during any part of which the individual is enrolled in a group health plan described in section 1862(b)(1)(A)(v) by reason of current employment status ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled.

(B) The special enrollment period referred to in the second sentences of paragraphs (1) and (2) is the period including each month during any part of which the individual is enrolled in a large group health plan (as that term is defined in section 1862(b)(1)(B)(iii)) by reason of the individual's current employment status (or the current employment status of a family member of the individual) ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled.

(4)(A) In the case of an individual who is entitled to benefits under part A pursuant to section 226(b) and—

(i) who at the time the individual first satisfies paragraph (1) of section 1836(a)—

(I) is enrolled in a group health plan described in section 1862(b)(1)(A)(v) by reason of the individual's current or former employment or by reason of the current or former employment status of a member of the individual's family, and

(II) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period; and

(ii) whose continuous enrollment under such group health plan is involuntarily terminated at a time when the enrollment under the plan is not by reason of the individual's current employment or by reason of the current employment of a member of the individual's family,

there shall be a special enrollment period described in subparagraph (B).

(B) The special enrollment period referred to in subparagraph (A) is the 6-month period beginning on the first day of the month which includes the date of the enrollment termination described in subparagraph (A)(ii).

(j) In applying this section in the case of an individual who is entitled to benefits under part A pursuant to the operation of section 226(h), the following special rules apply:

(1) The initial enrollment period under subsection (d) shall begin on the first day of the first month in which the individual satisfies the requirement of section 1836(a)(1).

(2) In applying subsection (g)(1), the initial enrollment period shall begin on the first day of the first month of entitlement to disability insurance benefits referred to in such subsection.

(k)(1) In the case of an individual who—

(A) at the time the individual first satisfies paragraph (1) or (2) of section 1836(a), is described in paragraph (3), and has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period; or

(B) has terminated enrollment under this section during a month in which the individual is described in paragraph (3), there shall be a special enrollment period described in paragraph (2).

(2) The special enrollment period described in this paragraph is the 6-month period beginning on the first day of the month which includes the date that the individual is no longer described in paragraph (3).

(3) For purposes of paragraph (1), an individual described in this paragraph is an individual who—

(A) is serving as a volunteer outside of the United States through a program—

(i) that covers at least a 12-month period; and

(ii) that is sponsored by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

(B) demonstrates health insurance coverage while serving in the program.

(1)(1) In the case of any individual who is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code) at the time the individual is entitled to part A under section 226(b) or section 226A and who is eligible to enroll but 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 paragraph (2).

(2) The special enrollment period described in this paragraph, with respect to an individual, is the 12-month period beginning on the day after the last day of the initial enrollment period of the individual or, if later, the 12-month period beginning with the month the individual is notified of enrollment under this section.

(3) In the case of an individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under this part shall begin on the first day of the month in which the individual enrolls, or, at the option of the individual, the first month after the end of the individual's initial enrollment period.

(4) An individual may only enroll during the special enrollment period provided under paragraph (1) one time during the individual's lifetime.

(5) The Secretary shall ensure that the materials relating to coverage under this part that are provided to an individual described in paragraph (1) prior to the individual's initial enrollment period contain information concerning the impact of not enrolling under this part, including the impact on health care benefits under the TRICARE program under chapter 55 of title 10, United States Code.

(6) The Secretary of Defense shall collaborate with the Secretary of Health and Human Services and the Commissioner of Social Security to provide for the accurate identification of individuals described in paragraph (1). The Secretary of Defense shall provide such individuals with notification with respect to this subsection. The Secretary of Defense shall collaborate with the Secretary of

Health and Human Services and the Commissioner of Social Security to ensure appropriate follow up pursuant to any notification provided under the preceding sentence.

(m) Beginning January 1, 2023, the Secretary may establish special enrollment periods in the case of individuals who satisfy paragraph (1) or (2) of section 1836(a) and meet such exceptional conditions as the Secretary may provide.

(n)(1) Any individual who is eligible for coverage of immunosuppressive drugs under section 1836(b) may enroll or be deemed to have enrolled only in such manner and form as may be prescribed by regulations, and only during an enrollment period described in this subsection.

(2) An individual described in paragraph (1) whose entitlement for hospital insurance benefits under part A ends by reason of section 226A(b)(2) prior to January 1, 2023, may enroll beginning on October 1, 2022, or the day on which the individual first satisfies section 1836(b), whichever is later.

(3) An individual described in paragraph (1) whose entitlement for hospital insurance benefits under part A ends by reason of section 226A(b)(2) on or after January 1, 2023, shall be deemed to have enrolled in the medical insurance program established by this part for purposes of coverage of immunosuppressive drugs.

(4) The Secretary shall establish a process under which an individual described in paragraph (1) whose other coverage described in section 1836(b)(2)(A), or coverage under this part (including the medical insurance program established under this part for purposes of coverage of immunosuppressive drugs), is terminated voluntarily or involuntarily may enroll or reenroll, if applicable, in the medical insurance program established under this part for purposes of coverage of immunosuppressive drugs.

(o)(1) *In the case of an individual who—*

(A) *as of January 1, 2023, is—*

(i) *a Postal Service Medicare covered annuitant; or*

(ii) *a member of family of a Postal Service employee or of a Postal Service annuitant and is a covered Medicare individual;*

(B) *intends to enroll in a Program plan under section 8903c of title 5, United States Code, for the initial contract year; and*

(C) *is not enrolled under this part, the individual may elect to be enrolled under this part during a special enrollment period during the 3-month period beginning on January 1, 2023.*

(2) *In the case of an individual who—*

(A) *on or after January 1, 2023, is—*

(i) *a Postal Service employee;*

(ii) *a Postal Service annuitant who is not a Postal Service Medicare covered annuitant; or*

(iii) *a member of family of a Postal Service employee or of a Postal Service annuitant and who is not described in paragraph (1); and*

(B) *enrolls in a Program plan under section 8903c of title 5, United States Code;*

the individual shall be deemed to have enrolled in the medical insurance program established by this part.

(3) *The definitions in section 8903c(a) of title 5, United States Code, shall apply for purposes of this subsection.*

(4) *Nothing in this subsection shall be construed to deprive any individual of any other method or period of enrollment to which such individual is entitled under this section.*

COVERAGE PERIOD

SEC. 1838. (a) The period during which an individual is entitled to benefits under the insurance program established by this part (hereinafter referred to as his “coverage period”) shall begin on whichever of the following is the latest:

(1) July 1, 1966, or (in the case of a disabled individual who has not attained age 65) July 1, 1973; or

(2)(A) in the case of an individual who enrolls pursuant to subsection (d) of section 1837 before the month in which he first satisfies paragraph (1) or (2) of section 1836(a), the first day of such month,

(B) in the case of an individual who first satisfies such paragraph in a month beginning before January 2023 and who enrolls pursuant to such subsection (d)—

(i) in such month in which he first satisfies such paragraph, the first day of the month following the month in which he so enrolls,

(ii) in the month following such month in which he first satisfies such paragraph, the first day of the second month following the month in which he so enrolls, or

(iii) more than one month following such month in which he satisfies such paragraph, the first day of the third month following the month in which he so enrolls,

(C) in the case of an individual who first satisfies such paragraph in a month beginning on or after January 1, 2023, and who enrolls pursuant to such subsection (d) in such month in which he first satisfies such paragraph or in any subsequent month of his initial enrollment period, the first day of the month following the month in which he so enrolls, or

(D) in the case of an individual who enrolls pursuant to subsection (e) of section 1837 in a month beginning—

(i) before January 1, 2023, the July 1 following the month in which he so enrolls; or

(ii) on or after January 1, 2023, the first day of the month following the month in which he so enrolls; or

(3) in the case of an individual who is deemed to have enrolled—

(A) on or before the last day of the third month of his initial enrollment period, the first day of the month in which he first meets the applicable requirements of section 1836(a) or July 1, 1973, whichever is later, or

(B) on or after the first day of the fourth month of his initial enrollment period, and where such month begins—

(i) before January 1, 2023, as prescribed under subparagraphs (B)(i), (B)(ii), (B)(iii), and (D)(i) of paragraph (2), or

(ii) on or after January 1, 2023, as prescribed under subparagraphs (C) and (D)(ii) of paragraph (2).

(b) An individual's coverage period shall continue until his enrollment has been terminated—

(1) by the filing of notice that the individual no longer wishes to participate in the insurance program established by this part, or

(2) for nonpayment of premiums.

The termination of a coverage period under paragraph (1) shall (except as otherwise provided in section 1843(e)) take effect at the close of the month following the month in which the notice is filed. The termination of a coverage period under paragraph (2) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 90 days; except that it may be extended to not to exceed 180 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 90-day period.

Where an individual who is deemed to have enrolled for medical insurance pursuant to section 1837(f) or section 1837(n)(3) files a notice before the first day of the month in which his coverage period begins advising that he does not wish to be so enrolled, the termination of the coverage period resulting from such deemed enrollment shall take effect with the first day of the month the coverage would have been effective. Where an individual who is deemed enrolled for medical insurance benefits pursuant to section 1837(f) or section 1837(n)(3) files a notice requesting termination of his deemed coverage in or after the month in which such coverage becomes effective, the termination of such coverage shall take effect at the close of the month following the month in which the notice is filed.

(c) In the case of an individual satisfying paragraph (1) of section 1836(a) whose entitlement to hospital insurance benefits under part A is based on a disability rather than on his having attained the age of 65, his coverage period (and his enrollment under this part) shall be terminated as of the close of the last month for which he is entitled to hospital insurance benefits.

(d) No payments may be made under this part with respect to the expenses of an individual unless such expenses were incurred by such individual during a period which, with respect to him, is a coverage period.

(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(i)(3) or 1837(i)(4)(B)—

(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3) or specified in section 1837(i)(4)(A)(i)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.

(f) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(k), the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.

(g) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(m), the coverage period shall begin on a date the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

(h) In the case of an individual described in section 1836(b)(1), the following rules shall apply:

(1) In the case of such an individual who is deemed to have enrolled in part B for coverage of immunosuppressive drugs under section 1837(n)(3), such individual's coverage period shall begin on the first day of the month in which the individual first satisfies section 1836(b).

(2) In the case of such an individual who enrolls (or re-enrolls, if applicable) in part B for coverage of immunosuppressive drugs under paragraph (2) or (4) of section 1837(n), such individual's coverage period shall begin on January 1, 2023, or the month following the month in which the individual so enrolls (or reenrolls), whichever is later.

(3) The provisions of subsections (b) and (d) shall apply with respect to an individual described in paragraph (1) or (2).

(4) In addition to the reasons for termination under subsection (b), the coverage period of an individual described in paragraph (1) or (2) shall end when the individual becomes entitled to benefits under this title under subsection (a) or (b) of section 226, or under section 226A, or is no longer eligible for such coverage as a result of the application of section 1836(b)(2).

(5) The Secretary may conduct public education activities to raise awareness of the availability of more comprehensive, individual health insurance coverage (as defined in section 2791 of the Public Health Service Act) for individuals eligible under section 1836(b) to enroll or to be deemed enrolled in the medical insurance program established under this part for purposes of coverage of immunosuppressive drugs.

(i) *Notwithstanding subsection (a)—*

(1) in the case of an individual who enrolls under this part pursuant to a special enrollment period under paragraph (1) of section 1837(o), the coverage period under this part shall begin on the date that the individual first has coverage under the Program plan pursuant to the enrollment described in paragraph (1)(B) of such section; and

(2) in the case of an individual who is deemed enrolled under paragraph (2) of section 1837(o), the coverage period under this part shall begin as of—

(A) in the case of such an individual who is a Postal Service employee or a Postal Service annuitant who is eligible to become a Postal Service Medicare covered annuitant, the date on which the individual becomes a Postal Service Medicare covered annuitant or the date of enrollment in a Program plan, whichever is later;

(B) in the case of such an individual who is eligible to enroll under section 1818 or 1818A of this Social Security Act, the date on which the individual attains such eligibility or the date of enrollment in a Program plan, whichever is later; and

(C) in the case of an individual described in paragraph (2)(A)(i)(III) of such section who is eligible to become a covered Medicare individual, as of the first date the individual becomes a covered Medicare individual or the date of enrollment in a Program plan, whichever is later.

AMOUNTS OF PREMIUMS

SEC. 1839. (a)(1) The Secretary shall, during September of 1983 and of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year. Subject to paragraphs (5), (6), and (7), such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to those enrollees age 65 and older will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin. In applying this paragraph there shall not be taken into account additional payments under section 1848(o) and section 1853(l)(3) and the Government contribution under section 1844(a)(3).

(2) The monthly premium of each individual enrolled under this part for each month after December 1983 shall be the amount determined under paragraph (3), adjusted as required in accordance with subsections (b), (c), (f), and (i), and to reflect any credit provided under section 1854(b)(1)(C)(ii)(III).

(3) The Secretary, during September of each year, shall determine and promulgate a monthly premium rate for the succeeding calendar year that (except as provided in subsection (g)) is equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1), for that succeeding calendar year. Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium rate for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and older as provided in paragraph (1).

(4) The Secretary shall also, during September of 1983 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year

with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

(5)(A) In applying this part (including subsection (i) and section 1833(b)), the monthly actuarial rate for enrollees age 65 and over for 2016 shall be determined as if subsection (f) did not apply.

(B) Subsection (f) shall continue to be applied to paragraph (6)(A) (during a repayment month, as described in paragraph (6)(B)) and without regard to the application of subparagraph (A).

(6)(A) With respect to a repayment month (as described in subparagraph (B)), the monthly premium otherwise established under paragraph (3) shall be increased by, subject to subparagraph (D), §3.

(B) For purposes of this paragraph, a repayment month is a month during a year, beginning with 2016, for which a balance due amount is computed under subparagraph (C) as greater than zero.

(C) For purposes of this paragraph, the balance due amount computed under this subparagraph, with respect to a month, is the amount estimated by the Chief Actuary of the Centers for Medicare & Medicaid Services to be equal to—

(i) the amount transferred under subsections (d)(1) and (e)(1) of section 1844; plus

(ii) the amount that is equal to the aggregate reduction, for all individuals enrolled under this part, in the income related monthly adjustment amount as a result of the application of paragraphs (5) and (7); minus

(iii) the amounts payable under this part as a result of the application of this paragraph for preceding months.

(D) If the balance due amount computed under subparagraph (C), without regard to this subparagraph, for December of a year would be less than zero, the Chief Actuary of the Centers for Medicare & Medicaid Services shall estimate, and the Secretary shall apply, a reduction to the dollar amount increase applied under subparagraph (A) for each month during such year in a manner such that the balance due amount for January of the subsequent year is equal to zero.

(7)(A) In applying this part (including subsection (i) and section 1833(b)), the monthly actuarial rate for enrollees age 65 and over for 2021 shall be determined to be equal to the sum of—

(i) the monthly actuarial rate for enrollees age 65 and over for 2020; plus

(ii) 25 percent of the difference between such rate for 2020 and the preliminary monthly actuarial rate for enrollees age 65 and over for 2021 (as estimated under subparagraph (B)).

(B) For purposes of subparagraph (A)(ii), the Secretary shall estimate a preliminary monthly actuarial rate for enrollees age 65 and over for 2021 using the methodology described in paragraph (1) and as if subparagraph (A) of this paragraph did not apply. The Secretary shall make the estimate under the previous sentence as if the transfers described in section 1844(f)(1) have been made.

(b) 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 1837) and not pursuant to a special enrollment period under subsection (i)(4), (l), or (m) of section 1837, the monthly premium determined under

subsection (a) (without regard to any adjustment under subsection (i)) 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 1862(b)(1)(A)(v) by reason of the individual's (or the individual's spouse's) current employment 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 an active individual (as those terms are defined in section 1862(b)(1)(B)(iii)) or months for which the individual can demonstrate that the individual was an individual described in section 1837(k)(3). 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, United States Code). The Secretary of Health and Human Services shall consult with the Secretary of Defense in identifying individuals described in the previous sentence. For purposes of determining any increase under this subsection for individuals whose enrollment occurs on or after January 1, 2023, the second sentence of this subsection shall be applied by substituting "close of the month" for "close of the period at the end of the enrollment sentence" each place it appears. No increase in the premium shall be effected for individuals who are enrolled pursuant to section 1836(b) for coverage only of immunosuppressive drugs.

(c) If any monthly premium determined under the foregoing provisions of this section is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

(d) For purposes of subsection (b) (and section 1837(g)(1)), an individual's "continuous period of eligibility" is the period beginning with the first day on which he is eligible to enroll under section 1836(a) and ending with his death; except that any period during all of which an individual satisfied paragraph (1) of section 1836(a) and which terminated in or before the month preceding the month in which he attained age 65 shall be a separate "continuous period of eligibility" with respect to such individual (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this section).

(e)(1) Upon the request of a State (or any appropriate State or local governmental entity specified by the Secretary), the Secretary may enter into an agreement with the State (or such entity) under

which the State (or such entity) agrees to pay on a quarterly or other periodic basis to the Secretary (to be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund) an amount equal to the amount of the part B late enrollment premium increases with respect to the premiums for eligible individuals (as defined in paragraph (3)(A)).

(2) No part B late enrollment premium increase shall apply to an eligible individual for premiums for months for which the amount of such an increase is payable under an agreement under paragraph (1).

(3) In this subsection:

(A) The term “eligible individual” means an individual who is enrolled under this part B and who is within a class of individuals specified in the agreement under paragraph (1).

(B) The term “part B late enrollment premium increase” means any increase in a premium as a result of the application of subsection (b).

(f) For any calendar year after 1988, if an individual is entitled to monthly benefits under section 202 or 223 or to a monthly annuity under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974 for November and December of the preceding year, if the monthly premium of the individual under this section for December and for January is deducted from those benefits under section 1840(a)(1) or section 1840(b)(1), and if the amount of the individual’s premium is not adjusted for such January under subsection (i), the monthly premium otherwise determined under this section for an individual for that year shall not be increased, pursuant to this subsection, to the extent that such increase would reduce the amount of benefits payable to that individual for that December below the amount of benefits payable to that individual for that November (after the deduction of the premium under this section). For purposes of this subsection, retroactive adjustments or payments and deductions on account of work shall not be taken into account in determining the monthly benefits to which an individual is entitled under section 202 or 223 or under the Railroad Retirement Act of 1974. Any increase in the premium for an individual who was enrolled under section 1836(b) attributable to such individual otherwise enrolling under this part shall not be taken into account in applying this subsection.

(g) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year for purposes of determining the monthly premium rate under subsection (a)(3), the Secretary shall exclude an estimate of any benefits and administrative costs attributable to—

(1) the application of section 1861(v)(1)(L)(viii) or to the establishment under section 1861(v)(1)(L)(i)(V) of a per visit limit at 106 percent of the median (instead of 105 percent of the median), but only to the extent payment for home health services under this title is not being made under section 1895 (relating to prospective payment for home health services); and

(2) the medicare prescription drug discount card and transitional assistance program under section 1860D-31.

(h) POTENTIAL APPLICATION OF COMPARATIVE COST ADJUSTMENT IN CCA AREAS.—

(1) IN GENERAL.—Certain individuals who are residing in a CCA area under section 1860C–1 who are not enrolled in an MA plan under part C may be subject to a premium adjustment under subsection (f) of such section for months in which the CCA program under such section is in effect in such area.

(2) NO EFFECT ON LATE ENROLLMENT PENALTY OR INCOME-RELATED ADJUSTMENT IN SUBSIDIES.—Nothing in this subsection or section 1860C–1(f) shall be construed as affecting the amount of any premium adjustment under subsection (b) or (i). Subsection (f) shall be applied without regard to any premium adjustment referred to in paragraph (1).

(3) IMPLEMENTATION.—In order to carry out a premium adjustment under this subsection and section 1860C–1(f) (insofar as it is effected through the manner of collection of premiums under section 1840(a)), the Secretary shall transmit to the Commissioner of Social Security—

(A) at the beginning of each year, the name, social security account number, and the amount of the premium adjustment (if any) for each individual enrolled under this part for each month during the year; and

(B) periodically throughout the year, information to update the information previously transmitted under this paragraph for the year.

(i) REDUCTION IN PREMIUM SUBSIDY BASED ON INCOME.—

(1) IN GENERAL.—In the case of an individual whose modified adjusted gross income exceeds the threshold amount under paragraph (2), the monthly amount of the premium subsidy applicable to the premium under this section for a month after December 2006 shall be reduced (and the monthly premium shall be increased) by the monthly adjustment amount specified in paragraph (3).

(2) THRESHOLD AMOUNT.—For purposes of this subsection, subject to paragraph (6), the threshold amount is—

(A) except as provided in subparagraph (B), \$80,000 (or, beginning with 2018, \$85,000), and

(B) in the case of a joint return, twice the amount applicable under subparagraph (A) for the calendar year.

(3) MONTHLY ADJUSTMENT AMOUNT.—

(A) IN GENERAL.—Subject to subparagraph (B), the monthly adjustment amount specified in this paragraph for an individual for a month in a year is equal to the product of the following:

(i) SLIDING SCALE PERCENTAGE.—Subject to paragraph (6), the applicable percentage specified in the applicable table in subparagraph (C) for the individual minus 25 percentage points.

(ii) UNSUBSIDIZED PART B PREMIUM AMOUNT.—

(I) 200 percent of the monthly actuarial rate for enrollees age 65 and over (as determined under subsection (a)(1) for the year); plus

(II) 4 times the amount of the increase in the monthly premium under subsection (a)(6) for a month in the year (or, with respect to an individual enrolled under section 1836(b) and not oth-

erwise enrolled under this part, 0 times the amount of such increase).

(B) 3-YEAR PHASE IN.—The monthly adjustment amount specified in this paragraph for an individual for a month in a year before 2009 is equal to the following percentage of the monthly adjustment amount specified in subparagraph (A):

- (i) For 2007, 33 percent.
- (ii) For 2008, 67 percent.

(C) APPLICABLE PERCENTAGE.—

(i) IN GENERAL.—

(I) Subject to paragraphs (5) and (6), for years before 2018:

If the modified adjusted gross income is:	The applicable percentage is:
More than \$80,000 but not more than \$100,000	35 percent
More than \$100,000 but not more than \$150,000	50 percent
More than \$150,000 but not more than \$200,000	65 percent
More than \$200,000	80 percent.

(II) Subject to paragraph (5), for 2018:

If the modified adjusted gross income is:	The applicable percentage is:
More than \$85,000 but not more than \$107,000	35 percent
More than \$107,000 but not more than \$133,500	50 percent
More than \$133,500 but not more than \$160,000	65 percent
More than \$160,000	80 percent.

(III) Subject to paragraph (5), for years beginning with 2019:

If the modified adjusted gross income is:	The applicable percentage is:
More than \$85,000 but not more than \$107,000	35 percent
More than \$107,000 but not more than \$133,500	50 percent
More than \$133,500 but not more than \$160,000	65 percent
More than \$160,000 but less than \$500,000	80 percent
At least \$500,000	85 percent.

(ii) JOINT RETURNS.—In the case of a joint return, clause (i) shall be applied by substituting dollar amounts which are twice the dollar amounts otherwise applicable under clause (i) for the calendar year except, with respect to the dollar amounts applied in the last row of the table under subclause (III) of such clause (and the second dollar amount specified in the second to last row of such table), clause (i) shall be ap-

plied by substituting dollar amounts which are 150 percent of such dollar amounts for the calendar year.

(iii) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of an individual who—

(I) is married as of the close of the taxable year (within the meaning of section 7703 of the Internal Revenue Code of 1986) but does not file a joint return for such year, and

(II) does not live apart from such individual's spouse at all times during the taxable year, clause (i) shall be applied by reducing each of the dollar amounts otherwise applicable under such clause for the calendar year by the threshold amount for such year applicable to an unmarried individual.

(4) MODIFIED ADJUSTED GROSS INCOME.—

(A) IN GENERAL.—For purposes of this subsection, the term “modified adjusted gross income” means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

(i) determined without regard to sections 135, 911, 931, and 933 of such Code; and

(ii) increased by the amount of interest received or accrued during the taxable year which is exempt from tax under such Code.

In the case of an individual filing a joint return, any reference in this subsection to the modified adjusted gross income of such individual shall be to such return's modified adjusted gross income.

(B) TAXABLE YEAR TO BE USED IN DETERMINING MODIFIED ADJUSTED GROSS INCOME.—

(i) IN GENERAL.—In applying this subsection for an individual's premiums in a month in a year, subject to clause (ii) and subparagraph (C), the individual's modified adjusted gross income shall be such income determined for the individual's last taxable year beginning in the second calendar year preceding the year involved.

(ii) TEMPORARY USE OF OTHER DATA.—If, as of October 15 before a calendar year, the Secretary of the Treasury does not have adequate data for an individual in appropriate electronic form for the taxable year referred to in clause (i), the individual's modified adjusted gross income shall be determined using the data in such form from the previous taxable year. Except as provided in regulations prescribed by the Commissioner of Social Security in consultation with the Secretary, the preceding sentence shall cease to apply when adequate data in appropriate electronic form are available for the individual for the taxable year referred to in clause (i), and proper adjustments shall be made to the extent that the premium adjustments determined under the preceding sentence were inconsistent with those determined using such taxable year.

(iii) NON-FILERS.—In the case of individuals with respect to whom the Secretary of the Treasury does not

have adequate data in appropriate electronic form for either taxable year referred to in clause (i) or clause (ii), the Commissioner of Social Security, in consultation with the Secretary, shall prescribe regulations which provide for the treatment of the premium adjustment with respect to such individual under this subsection, including regulations which provide for—

(I) the application of the highest applicable percentage under paragraph (3)(C) to such individual if the Commissioner has information which indicates that such individual's modified adjusted gross income might exceed the threshold amount for the taxable year referred to in clause (i), and

(II) proper adjustments in the case of the application of an applicable percentage under subclause (I) to such individual which is inconsistent with such individual's modified adjusted gross income for such taxable year.

(C) USE OF MORE RECENT TAXABLE YEAR.—

(i) IN GENERAL.—The Commissioner of Social Security in consultation with the Secretary of the Treasury shall establish a procedures under which an individual's modified adjusted gross income shall, at the request of such individual, be determined under this subsection—

(I) for a more recent taxable year than the taxable year otherwise used under subparagraph (B), or

(II) by such methodology as the Commissioner, in consultation with such Secretary, determines to be appropriate, which may include a methodology for aggregating or disaggregating information from tax returns in the case of marriage or divorce.

(ii) STANDARD FOR GRANTING REQUESTS.—A request under clause (i)(I) to use a more recent taxable year may be granted only if—

(I) the individual furnishes to such Commissioner with respect to such year such documentation, such as a copy of a filed Federal income tax return or an equivalent document, as the Commissioner specifies for purposes of determining the premium adjustment (if any) under this subsection; and

(II) the individual's modified adjusted gross income for such year is significantly less than such income for the taxable year determined under subparagraph (B) by reason of the death of such individual's spouse, the marriage or divorce of such individual, or other major life changing events specified in regulations prescribed by the Commissioner in consultation with the Secretary.

(5) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—Subject to subparagraph (C), in the case of any calendar year beginning after 2007 (other than

2018 and 2019), each dollar amount in paragraph (2) or (3) shall be increased by an amount equal to—

- (i) such dollar amount, multiplied by
- (ii) the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2006 (or, in the case of a calendar year beginning with 2020, August 2018).

(B) ROUNDING.—If any dollar amount after being increased under subparagraph (A) or (C) is not a multiple of \$1,000, such dollar amount shall be rounded to the nearest multiple of \$1,000.

(C) TREATMENT OF ADJUSTMENTS FOR CERTAIN HIGHER INCOME INDIVIDUALS.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to each dollar amount in paragraph (3) of \$500,000.

(ii) ADJUSTMENT BEGINNING 2028.—In the case of any calendar year beginning after 2027, each dollar amount in paragraph (3) of \$500,000 shall be increased by an amount equal to—

- (I) such dollar amount, multiplied by
- (II) the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2026.

(6) TEMPORARY ADJUSTMENT TO INCOME THRESHOLDS.—Notwithstanding any other provision of this subsection, during the period beginning on January 1, 2011, and ending on December 31, 2017—

(A) the threshold amount otherwise applicable under paragraph (2) shall be equal to such amount for 2010; and

(B) the dollar amounts otherwise applicable under paragraph (3)(C)(i) shall be equal to such dollar amounts for 2010.

(7) JOINT RETURN DEFINED.—For purposes of this subsection, the term “joint return” has the meaning given to such term by section 7701(a)(38) of the Internal Revenue Code of 1986.

(j) DETERMINATION OF PREMIUM FOR INDIVIDUALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—The Secretary shall, during September of each year (beginning with 2022), determine and promulgate a monthly premium rate for the succeeding calendar year for individuals enrolled only for the purpose of coverage of immunosuppressive drugs under section 1836(b). Such premium shall be equal to 15 percent of the monthly actuarial rate for enrollees age 65 and over (as would be determined in accordance with subsection (a)(1) if the reference to “one-half” in such subsection were a reference to “100 percent”) for that succeeding calendar year. The monthly premium of each individual enrolled for coverage of immunosuppressive drugs under section 1836(b) for each month shall be the amount promulgated in this subsection. In

the case of such individual not otherwise enrolled under this part, such premium shall be in lieu of any other monthly premium applicable under this section. Such amount shall be adjusted in accordance with subsections (c), (f), and (i), but shall not be adjusted under subsection (b).

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PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

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Subpart 3—Application to Medicare Advantage Program and Treatment of Employer-Sponsored Programs and Other Prescription Drug Plans

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SPECIAL RULES FOR EMPLOYER-SPONSORED PROGRAMS

SEC. 1860D–22. (a) SUBSIDY PAYMENT.—

(1) IN GENERAL.—The Secretary shall provide in accordance with this subsection for payment to the sponsor of a qualified retiree prescription drug plan (as defined in paragraph (2)) of a special subsidy payment equal to the amount specified in paragraph (3) for each qualified covered retiree under the plan (as defined in paragraph (4)). This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this section.

(2) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN DEFINED.—For purposes of this subsection, the term “qualified retiree prescription drug plan” means employment-based retiree health coverage (as defined in subsection (c)(1)) if, with respect to a part D eligible individual who is a participant or beneficiary under such coverage, the following requirements are met:

(A) ATTESTATION OF ACTUARIAL EQUIVALENCE TO STANDARD COVERAGE.—The sponsor of the plan provides the Secretary, annually or at such other time as the Secretary may require, with an attestation that the actuarial value of prescription drug coverage under the plan (as determined using the processes and methods described in section 1860D–11(c)) is at least equal to the actuarial value of standard prescription drug coverage, not taking into account the value of any discount or coverage provided during the gap in prescription drug coverage that occurs between the initial coverage limit under section 1860D–2(b)(3) during the year and the out-of-pocket threshold specified in section 1860D–2(b)(4)(B).

(B) AUDITS.—The sponsor of the plan, or an administrator of the plan designated by the sponsor, shall maintain (and afford the Secretary access to) such records as the Secretary may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage and the accuracy of payments made under this section. The provisions of section 1860D–2(d)(3) shall apply to such information under this section

(including such actuarial value and attestation) in a manner similar to the manner in which they apply to financial records of PDP sponsors and MA organizations.

(C) PROVISION OF DISCLOSURE REGARDING PRESCRIPTION DRUG COVERAGE.—The sponsor of the plan shall provide for disclosure of information regarding prescription drug coverage in accordance with section 1860D–13(b)(6)(B).

(3) EMPLOYER AND UNION SPECIAL SUBSIDY AMOUNTS.—

(A) IN GENERAL.—For purposes of this subsection, the special subsidy payment amount under this paragraph for a qualifying covered retiree for a coverage year enrolled with the sponsor of a qualified retiree prescription drug plan is, for the portion of the retiree’s gross covered retiree plan-related prescription drug costs (as defined in subparagraph (C)(ii)) for such year that exceeds the cost threshold amount specified in subparagraph (B) and does not exceed the cost limit under such subparagraph, an amount equal to 28 percent of the allowable retiree costs (as defined in subparagraph (C)(i)) attributable to such gross covered prescription drug costs.

(B) COST THRESHOLD AND COST LIMIT APPLICABLE.—

(i) IN GENERAL.—Subject to clause (ii)—

(I) the cost threshold under this subparagraph is equal to \$250 for plan years that end in 2006; and

(II) the cost limit under this subparagraph is equal to \$5,000 for plan years that end in 2006.

(ii) INDEXING.—The cost threshold and cost limit amounts specified in subclauses (I) and (II) of clause (i) for a plan year that ends after 2006 shall be adjusted in the same manner as the annual deductible and the annual out-of-pocket threshold, respectively, are annually adjusted under paragraphs (1) and (4)(B) of section 1860D–2(b).

(C) DEFINITIONS.—For purposes of this paragraph:

(i) ALLOWABLE RETIREE COSTS.—The term “allowable retiree costs” means, with respect to gross covered prescription drug costs under a qualified retiree prescription drug plan by a plan sponsor, the part of such costs that are actually paid (net of discounts, chargebacks, and average percentage rebates) by the sponsor or by or on behalf of a qualifying covered retiree under the plan.

(ii) GROSS COVERED RETIREE PLAN-RELATED PRESCRIPTION DRUG COSTS.—For purposes of this section, the term “gross covered retiree plan-related prescription drug costs” means, with respect to a qualifying covered retiree enrolled in a qualified retiree prescription drug plan during a coverage year, the costs incurred under the plan, not including administrative costs, but including costs directly related to the dispensing of covered part D drugs during the year. Such costs shall be determined whether they are paid by the retiree or under the plan.

(iii) **COVERAGE YEAR.**—The term “coverage year” has the meaning given such term in section 1860D–15(b)(4).

(4) **QUALIFYING COVERED RETIREE DEFINED.**—For purposes of this subsection, the term “qualifying covered retiree” means a part D eligible individual who is not enrolled in a prescription drug plan or an MA–PD plan but is covered under a qualified retiree prescription drug plan.

(5) **PAYMENT METHODS, INCLUDING PROVISION OF NECESSARY INFORMATION.**—The provisions of section 1860D–15(d) (including paragraph (2), relating to requirement for provision of information) shall apply to payments under this subsection in a manner similar to the manner in which they apply to payment under section 1860D–15(b).

(6) **CONSTRUCTION.**—Nothing in this subsection shall be construed as—

(A) precluding a part D eligible individual who is covered under employment-based retiree health coverage from enrolling in a prescription drug plan or in an MA–PD plan;

(B) precluding such employment-based retiree health coverage or an employer or other person from paying all or any portion of any premium required for coverage under a prescription drug plan or MA–PD plan on behalf of such an individual;

(C) preventing such employment-based retiree health coverage from providing coverage—

(i) that is better than standard prescription drug coverage to retirees who are covered under a qualified retiree prescription drug plan; or

(ii) that is supplemental to the benefits provided under a prescription drug plan or an MA–PD plan, including benefits to retirees who are not covered under a qualified retiree prescription drug plan but who are enrolled in such a prescription drug plan or MA–PD plan; or

(D) preventing employers to provide for flexibility in benefit design and pharmacy access provisions, without regard to the requirements for basic prescription drug coverage, so long as the actuarial equivalence requirement of paragraph (2)(A) is met.

(b) **APPLICATION OF MA WAIVER AUTHORITY.**—The provisions of section 1857(i) shall apply with respect to prescription drug plans in relation to employment-based retiree health coverage in a manner similar to the manner in which they apply to an MA plan in relation to employers, including authorizing the establishment of separate premium amounts for enrollees in a prescription drug plan by reason of such coverage and limitations on enrollment to part D eligible individuals enrolled under such coverage, *and shall be applied in a manner to facilitate the offering of prescription drug benefits under a Program plan under section 8903c of title 5, United States Code, through employment-based retiree health coverage through a prescription drug plan, as required under subsection (f) of such section, through contracts between such a Program plan and such a prescription drug plan.*

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

(1) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term “employment-based retiree health coverage” means health insurance or other coverage of health care costs (whether provided by voluntary insurance coverage or pursuant to statutory or contractual obligation) for part D eligible individuals (or for such individuals and their spouses and dependents) under a group health plan based on their status as retired participants in such plan.

(2) SPONSOR.—The term “sponsor” means a plan sponsor, as defined in section 3(16)(B) of the Employee Retirement Income Security Act of 1974, in relation to a group health plan, except that, in the case of a plan maintained jointly by one employer and an employee organization and with respect to which the employer is the primary source of financing, such term means such employer.

(3) GROUP HEALTH PLAN.—The term “group health plan” includes such a plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 and also includes the following:

(A) FEDERAL AND STATE GOVERNMENTAL PLANS.—Such a plan established or maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing, including a health benefits plan offered under chapter 89 of title 5, United States Code.

(B) COLLECTIVELY BARGAINED PLANS.—Such a plan established or maintained under or pursuant to one or more collective bargaining agreements.

(C) CHURCH PLANS.—Such a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1986.

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TITLE 39, UNITED STATES CODE

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PART I—GENERAL

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CHAPTER 1—POSTAL POLICY AND DEFINITIONS

§ 101. Postal policy

(a) The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people. The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide

prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities. The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.

(b) *The Postal Service shall maintain an integrated network for the delivery of market-dominant and competitive products (as defined in chapter 36 of this title). Delivery shall occur at least six days a week, except during weeks that include a Federal holiday or in emergency situations, such as natural disasters.* The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.

(c) As an employer, the Postal Service shall achieve and maintain compensation for its officers and employees comparable to the rates and types of compensation paid in the private sector of the economy of the United States. It shall place particular emphasis upon opportunities for career advancements of all officers and employees and the achievement of worthwhile and satisfying careers in the service of the United States.

(d) Postal rates shall be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.

(e) In determining all policies for postal services, the Postal Service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail.

(f) In selecting modes of transportation, the Postal Service shall give highest consideration to the **prompt and economical** *prompt, economical, consistent, and reliable* delivery of all mail *in a manner that increases operational efficiency and reduces complexity.* Modern methods of transporting mail by containerization and programs designed to achieve *cost-effective* overnight transportation to the destination of important letter mail to all parts of the Nation shall *also* be a primary goal of postal operations.

(g) In planning and building new postal facilities, the Postal Service shall emphasize the need for facilities and equipment designed to create desirable working conditions for its officers and employees, a maximum degree of convenience for efficient postal services, proper access to existing and future air and surface transportation facilities, and control of costs to the Postal Service.

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CHAPTER 4—GENERAL AUTHORITY

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§ 404. Specific powers

(a) Subject to the provisions of section 404a, but otherwise without limitation of the generality of its powers, the Postal Service shall have the following specific powers, among others:

(1) to provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail, and for the disposition of undeliverable mail;

(2) to prescribe, in accordance with this title, the amount of postage and the manner in which it is to be paid;

(3) to determine the need for post offices, postal and training facilities and equipment, and to provide such offices, facilities, and equipment as it determines are needed;

(4) to provide and sell postage stamps and other stamped paper, cards, and envelopes and to provide such other evidences of payment of postage and fees as may be necessary or desirable;

(5) to provide philatelic services;

(6) to investigate postal offenses and civil matters relating to the Postal Service;

(7) 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) to authorize the issuance of a substitute check for a lost, stolen, or destroyed check of the Postal Service.

(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient 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.

(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.

(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.

(5) A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Regulatory Commission within 30 days after such determination is made available to such person under paragraph (3). The Commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The Commission shall make a determination based upon such review no later than 120 days after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

(B) without observance of procedure required by law; or

(C) unsupported by substantial evidence on the record.

The Commission may affirm the determination of the Postal Service or order that the entire matter be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal. The provisions of section 556, section 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

(6) For purposes of paragraph (5), any appeal received by the Commission shall—

(A) 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 such appeal is mailed; or

(B) 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).

(e)(1) In this subsection, the term “nonpostal service” means any service that is not a postal service defined under section 102(5).

(2) 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, or any nonpostal products or services authorized by chapter 37.

(3) 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) the public need for the service; and

(B) the ability of the private sector to meet the public need for the service.

(4) 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.

(6) *Licensing which, before the date of enactment of this paragraph, has been authorized by the Postal Regulatory Commission for continuation as a nonpostal service may not be used for any purpose other than—*

(A) *to continue to provide licensed mailing, shipping, or stationery supplies offered as of June 23, 2011; or*

(B) *to license other goods, products, or services, the primary purpose of which is to promote and enhance the image or brand of the Postal Service.*

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

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§ 411. Cooperation with other Government agencies

Executive agencies within the meaning of section 105 of title 5 and the Government Publishing Office are authorized to furnish property, both real and personal, and personal and nonpersonal services to the Postal Service, and the Postal Service is authorized to furnish property and services to them. The furnishing of property and services under this section shall be under such terms and conditions, [including reimbursability] *including reimbursability within the limitations of chapter 37*, as the Postal Service and the head of the agency concerned shall deem appropriate.

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CHAPTER 5—POSTAL REGULATORY COMMISSION

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§ 504. Administration

(a) The Chairman of the Postal Regulatory Commission shall be the principal executive officer of the Commission. The Chairman shall exercise or direct the exercise of all the 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.

(c) 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.

[(d) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits.]

(d)(1) Not later than September 1 of each fiscal year (beginning with fiscal year 2022), the Postal Regulatory Commission shall submit to the Postal Service a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits, for the following fiscal year. Any such budget shall be deemed approved as submitted if the Governors fail to adjust the budget in accordance with paragraph (2).

(2)(A) Not later than 30 days after receiving a budget under paragraph (1), the Governors holding office, by unanimous written decision, may adjust the total amount of funding requested in such budget. Nothing in this subparagraph may be construed to authorize the Governors to adjust any activity proposed to be funded by the budget.

(B) If the Governors adjust the budget under subparagraph (A), the Postal Regulatory Commission shall adjust the suballocations within such budget to reflect the total adjustment made by the Governors. The budget shall be deemed approved on the date the Commission makes any such adjustments. The Commission may make further adjustments to the suballocations within such budget as necessary.

(3) Expenses incurred under any budget approved under this subsection shall be paid out of the Postal Service Fund established under section 2003.

(e) The provisions of section 410 and chapter 10 of this title shall apply to the Commission, as appropriate.

(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under

section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title or to obtain information to be used to prepare a report under this title—

(A) issue subpoenas requiring the attendance and presentation of testimony by, or the production of documentary or other evidence in the possession of, any covered person; and

(B) order the taking of depositions and responses to written interrogatories by a covered person.

The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.

(3) In the case of contumacy or failure to obey a subpoena issued under this subsection, upon application by the Commission, the district court of the United States for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(4) For purposes of this subsection, the term “covered person” means an officer, employee, agent, or contractor of the Postal Service.

(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission under a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

(2) Except as provided in paragraph (3), no officer or employee of the Commission may, with respect to any information as to which the Commission has been notified under paragraph (1)—

(A) use such information for purposes other than the purposes for which it is supplied; or

(B) permit anyone who is not an officer or employee of the Commission to have access to any such information.

(3)(A) Paragraph (2) shall not prohibit the Commission from publicly disclosing relevant information in furtherance of its duties under this title, provided that the Commission has adopted regulations under section 553 of title 5, that establish a procedure for accorded appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the finan-

cial transparency of a government establishment competing in commercial markets.

(B) Paragraph (2) shall not prevent the Commission from requiring production of information in the course of any discovery procedure established in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for information furnished to any party.

[(h)(1) Notwithstanding any other provision of this title or of the Inspector General Act of 1978, the authority to select, appoint, and employ officers and employees of the Office of Inspector General of the Postal Regulatory Commission, and to obtain any temporary or intermittent services of experts or consultants (or an organization of experts or consultants) for such Office, shall reside with the Inspector General of the Postal Regulatory Commission.

[(2) Except as provided in paragraph (1), any exercise of authority under this subsection shall, to the extent practicable, be in conformance with the applicable laws and regulations that govern selections, appointments, and employment, and the obtaining of any such temporary or intermittent services, within the Postal Regulatory Commission.]

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PART III—MODERNIZATION AND FISCAL ADMINISTRATION

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CHAPTER 20—FINANCE

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§ 2003. The Postal Service Fund

(a) There is established in the Treasury of the United States a revolving fund to be called the Postal Service Fund which shall be available to the Postal Service without fiscal-year limitation to carry out the purposes, functions, and powers authorized by this title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).

(b) Except as otherwise provided in section 2011, there shall be deposited in the Fund, subject to withdrawal by check by the Postal Service—

- (1) revenues from postal and nonpostal services rendered by the Postal Service;
- (2) amounts received from obligations issued by the Postal Service;
- (3) amounts appropriated for the use of the Postal Service;
- (4) interest which may be earned on investments of the Fund;
- (5) any other receipts of the Postal Service;
- (6) the balance in the Post Office Department Fund established under former section 2202 of title 39 as of the commencement of operations of the Postal Service;
- (7) amounts (including proceeds from the sale of forfeited items) from any civil forfeiture conducted by the Postal Service;

(8) any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes; and

(9) any amounts collected under section 3018.

(c) If the Postal Service determines that the moneys of the Fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary, in such other obligations or securities as it deems appropriate.

(d) With the approval of the Secretary of the Treasury, the Postal Service may deposit moneys of the Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Postal Service and the Secretary may mutually agree.

(e)(1) The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); **[(B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d);]** *(B) all expenses of the Postal Regulatory Commission, pursuant to section 504(d);* and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978. The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9705(o) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service. Neither the Fund nor any of the funds credited to it shall be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31.

(2) Funds appropriated to the Postal Service under section 2401 of this title shall be apportioned as provided in this paragraph. From the total amounts appropriated to the Postal Service for any fiscal year under the authorizations contained in section 2401 of this title, the Secretary of the Treasury shall make available to the Postal Service 25 percent of such amount at the beginning of each quarter of such fiscal year.

(f) Notwithstanding any other provision of this section, any amounts appropriated to the Postal Service under subsection (d) of section 2401 of this title and deposited into the Fund shall be expended by the Postal Service only for the purposes provided in such subsection.

(g) Notwithstanding any provision of section 8147 of title 5, whenever the Secretary of Labor furnishes a statement to the Postal Service indicating an amount due from the Postal Service under subsection (b) of that section, the Postal Service shall make the deposit required pursuant to that statement (and any additional payment under subsection (c) of that section, to the extent that it relates to the period covered by such statement) not later than 30 days after the date on which such statement is so furnished. Any

deposit (and any additional payment) which is subject to the preceding sentence shall, once made, remain available without fiscal year limitation.

(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.

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§ 2009. Annual budget

The Postal Service shall cause to be prepared annually a budget program which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget program shall be a business-type budget, or plan of operations, with due allowance given to the need for flexibility, including provision for emergencies and contingencies, in order that the Postal Service may properly carry out its activities as authorized by law. The budget program shall contain estimates of the financial condition and operations of the Postal Service for the current and ensuing fiscal years and the actual condition and results of operation for the last completed fiscal year. Such budget program shall include a statement of financial condition, a statement of income and expense, an analysis of surplus or deficit, a statement of sources and application of funds, and such other supplementary statements and information as are necessary or desirable to make known the financial condition and operations of the Postal Service. Such statements shall include estimates of operations by major types of activities, together with estimates of administrative expenses and estimates of borrowings. The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401[~~, (2)~~], and (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978[~~, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title~~]. The President shall include these amounts, with his recommendations but without revision, in the budget transmitted to Congress under section 1105 of title 31.

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CHAPTER 29—PROPERTY MANAGEMENT

Sec.
2901. Definitions.

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2903. *Use of funds from sale of property.*

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§ 2903. Use of funds from sale of property

In the event that the Postal Service permanently ceases operations, any funds derived from the sale of any real property owned by the Postal Service shall be used to pay any outstanding liability with respect to the salaries and expenses of any Postal Service employee. The balance of any remaining funds shall be deposited into the Postal Service Retiree Health Benefits Fund established under section 8909a of title 5.

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PART IV—MAIL MATTER

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CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

Sec.
3621. Applicability; definitions.

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SUBCHAPTER VII—MODERN SERVICE STANDARDS

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3692. *Performance targets and transparency.*

SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

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§ 3626. Reduced rates

(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with section 3622.

(2) For the purpose of this subsection, the term “regular-rate category” means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).

(3) Rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title shall be established so that postage on each mailing of such mail reflects its preferred status as compared to the postage for the most closely corresponding regular-rate category mailing.

(4)(A) Except as specified in subparagraph (B), rates of postage for a class of mail or kind of mailer under former section 4358 (d) or (e) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate category mailing.

(B) With respect to the postage for the advertising pound portion of any mail matter under former section 4358 (d) or (e) of this title, the 5-percent discount specified in subparagraph (A) shall not apply if the advertising portion exceeds 10 percent of the publication involved.

(5) The rates for any advertising under former section 4358(f) of this title shall be equal to 75 percent of the rates for advertising contained in the most closely corresponding regular-rate category of mail.

(6) The rates for mail matter under former sections 4452 (b) and (c) of this title shall be established as follows:

(A) The estimated average revenue per piece to be received by the Postal Service from each subclass of mail under former sections 4452 (b) and (c) of this title shall be equal, as nearly as practicable, to 60 percent of the estimated average revenue per piece to be received from the most closely corresponding regular-rate subclass of mail.

(B) For purposes of subparagraph (A), the estimated average revenue per piece of each regular-rate subclass shall be calculated on the basis of expected volumes and mix of mail for such subclass at current rates in the test year of the proceeding.

(C) Rate differentials within each subclass of mail matter under former sections 4452 (b) and (c) shall reflect the policies of this title, including the factors set forth in section 3622(b) of this title.

(7) The rates for mail matter under former sections 4554 (b) and (c) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate mailing.

(b)(1) For the purposes of this title, the term “periodical publications”, as used in former section 4351 of this title, includes (A) any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education; and (B) any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

(2) Any material described in paragraph (1) of this subsection shall qualify to be entered and mailed as second class mail in accordance with the applicable provisions of former section 4352 through former section 4357 of this title.

(3) For purposes of this subsection, the term “institution of higher education” has the meaning given it by section 101 of the Higher Education Act of 1965, and includes a nonprofit organization that coordinates a network of college-level courses that is sponsored primarily by nonprofit educational institutions for an older adult constituency.

(c) In the administration of this section, one conservation publication published by an agency of a State which is responsible for management and conservation of the fish or wildlife resources of such State shall be considered a publication of a qualified nonprofit organization which qualifies for rates of postage under former section 4358(d) of this title.

(d)(1) For purposes of this title, the term “agricultural”, as used in former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, includes the art or science of cultivating land, harvesting crops or marine resources, or raising of livestock.

(2) In the administration of this section, and for purposes of former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, agricultural organizations or associations shall include any organization or association which collects and disseminates information or materials relating to agricultural pursuits.

(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) 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.

(g)(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.

(2) Paragraph (1) of this subsection shall not apply to an issue of a publication if the total paid circulation of such issue is less than 10,000 copies.

(3) For purposes of this section and former section 4358(a) through (c) of this title, those copies of an issue of a publication entered within the county in which it is published, but distributed outside such county on postal carrier routes originating in the county of publication, shall be treated as if they were distributed within the county of publication.

(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.

(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside

the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.

(h) 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~~ *50 percent* of the number of copies of such publication mailed at such rates to subscribers.

(j)(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—

(A) any credit, debit, or charge card, or similar financial instrument or account, provided by or through an arrangement with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

(B) any insurance policy, unless the organization which promotes the purchase of such policy is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the policy is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization, and the coverage provided by the policy is not generally otherwise commercially available;

(C) any travel arrangement, unless the organization which promotes the arrangement is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the travel contributes substantially (aside from the cultivation of members, donors, or supporters, or the acquisition of income or funds) to one or more of the purposes which constitutes the basis for the organization's authorization to mail at such rates, and the arrangement is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization; or

(D) any product or service (other than any to which subparagraph (A), (B), or (C) relates), if—

(i) the sale of such product or the providing of such service is not substantially related (aside from the need, on the part of the organization promoting such product or service, for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of one or more of the purposes constituting the basis for the organization's authorization to mail at such rates; or

(ii) the mail matter involved is part of a cooperative mailing (as defined under regulations of the Postal Service) with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

except that—

(I) any determination under clause (i) that a product or service is not substantially related to a particular purpose shall be made under regulations which shall be prescribed by the Postal Service and which shall be consistent with standards established by the Internal Revenue Service and

the courts with respect to subsections (a) and (c) of section 513 of the Internal Revenue Code of 1986; and

(II) clause (i) shall not apply if the product involved is a periodical publication described in subsection (m)(2) (including a subscription to receive any such publication); and

(III) clause (i) shall not apply to space advertising in mail matter that otherwise qualifies for rates under former section 4452(b) or 4452(c) of this title, and satisfies the content requirements established by the Postal Service for periodical publications: *Provided*, That such changes in law shall take effect immediately and shall stay in effect hereafter unless the Congress enacts legislation on this matter prior to October 1, 1995.

(2) Matter shall not be excluded from being mail at the rates for mail under former section 4452(b) or 4452(c) of this title, by an organization authorized to mail at those rates solely because—

(A) such matter contains, but is not primarily devoted to, acknowledgements of organizations or individuals who have made donations to the authorized organization; or

(B) such matter contains, but is not primarily devoted to, references to and a response card or other instructions for making inquiries concerning services or benefits available as a result of membership in the authorized organization: *Provided*, That advertising, promotional, or application materials specifically concerning such services or benefits are not included.

(3)(A) Upon request, an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title shall furnish evidence to the Postal Service concerning the eligibility of any of its mail matter or mailings to be sent at those rates.

(B) The Postal Service shall establish procedures to carry out this paragraph, including procedures for mailer certification of compliance with the conditions specified in paragraph (1)(D) or subsection (m), as applicable, and verification of such compliance.

(k)(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.

(2) The Postal Service may assess a postage deficiency in the amount of the unpaid postage against any person or organization which violates paragraph (1) of this subsection. This assessment shall be deemed the final decision of the Postal Service, unless the party against whom the deficiency is assessed appeals it in writing within thirty days to the postmaster of the office where the mailing was entered. Such an appeal shall be considered by an official designated by the Postal Service, other than the postmaster of the office where the mailing was entered, who shall issue a decision as soon as practicable. This decision shall be deemed final unless the party against whom the deficiency was assessed appeals it in writing within thirty days to a further reviewing official designated by the Postal Service, who shall issue the final decision on the matter.

(3) The Postal Service shall maintain procedures for the prompt collection of postage deficiencies arising from the violation of paragraph (1) of this subsection, and may in its discretion, follow the

issuance of a final decision regarding a deficiency under paragraph (2) of this subsection deduct the amount of that deficiency incurred during the previous 12 months from any postage accounts or other monies of the violator in its possession.

(1) 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)(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—

(A) were received by the organization as gifts or contributions; or

(B) are low cost articles (as defined by section 513(h)(2) of the Internal Revenue Code of 1986).

(2) Paragraph (1) shall not apply with respect to a periodical publication of a qualified nonprofit organization.

(n) 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).

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SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

§ 3641. Market tests of experimental products

(a) AUTHORITY.—

(1) IN GENERAL.—The Postal Service may conduct market tests of experimental products in accordance with this section.

(2) PROVISIONS WAIVED.—A product shall not, while it is being tested under this section, be subject to the requirements of sections 3622, 3633, or 3642, or regulations promulgated under those sections.

[(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, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

[(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

[(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). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(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.】

【(c)】 (b) NOTICE.—

(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

(A) setting out the basis for the Postal Service’s determination that the market test is covered by this section; and

(B) describing the nature and scope of the market test.

(2) SAFEGUARDS.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

【(d)】 DURATION.—

【(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

【(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

【(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 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 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—

【(A) the product is likely to benefit the public and meet an expected demand;

[(B) the product is likely to contribute to the financial stability of the Postal Service; and

[(C) the product is not likely to result in unfair or otherwise inappropriate competition.]

[(f)] (c) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

[(g)] (d) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

[(h)] (e) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

[(i)] (f) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a).

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SUBCHAPTER VII—MODERN SERVICE STANDARDS

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§ 3692. *Performance targets and transparency*

(a) *PERFORMANCE TARGETS.*—Each year, to ensure that mail service for postal customers meets the service standards for market-dominant products, established under section 3691, the Postal Service shall—

(1) *at least 60 days before the beginning of the fiscal year in which they will apply, establish and provide to the Postal Regulatory Commission reasonable targets for performance; and*

(2) *provide the previous fiscal years’ performance targets in its Annual Compliance Report to the Postal Regulatory Commission for evaluation of compliance.*

(b) *PUBLIC PERFORMANCE DASHBOARD.*—

(1) *IN GENERAL.*—The Postal Service shall develop and maintain a publicly available Website with an interactive web-tool that provides performance information for market-dominant products that is updated on a weekly basis.

(2) *PERFORMANCE INFORMATION.*—The performance information provided on the Website shall include—

(A) *the type of market-dominant product;*

(B) *geographic area at the nationwide, Area, and District level;*

(C) time periods showing performance information in annual, quarterly, monthly, and weekly segments;

(D) comparisons of performance information for market-dominant products for previous time periods to facilitate identification of performance trends; and

(E) the current performance targets and previous fiscal year performance targets, established under subsection (a)(1).

(3) *COMPREHENSIBILITY.*—The Website shall include plain language descriptions of the elements required under paragraph (2) and information on the collection process, measurement methodology, completeness, accuracy, and validity of the performance information provided on the Website.

(4) *ADDRESS SEARCH FUNCTIONALITY.*—The Website shall include functionality to enable a user to search for performance information by street address, ZIP Code, or post office box.

(5) *FORMAT.*—The performance information provided on the Website shall be made available—

(A) in a manner that—

(i) presents the information referenced under paragraph (2) on an interactive dashboard;

(ii) is searchable and may be sorted and filtered by the elements described in paragraph (2); and

(iii) to the extent practicable, enables any person or entity to download in bulk—

(I) such performance information; and

(II) the results of a search by the elements described in paragraph (2);

(B) in an open format that permits any individual or entity to reuse and analyze the performance information; and

(C) in a structured data format, to the extent practicable.

(6) *CONSULTATION.*—The Postal Service shall regularly consult with the Postal Regulatory Commission on appropriate features and information to be included on the Website.

(7) *PUBLIC INPUT.*—The Postal Service shall—

(A) solicit public input on the design and implementation of the Website; and

(B) maintain a public feedback tool, to ensure features of, and information on, the Website is usable and understandable.

(8) *DEADLINE.*—The Website shall be implemented and made available to the public not later than the date on which the performance targets are provided to the Postal Regulatory Commission under subsection (a)(1).

(9) *AVAILABILITY.*—A link and plain language description of the Website shall be made available on the website where the performance targets and measurements established under subsection (a)(1) are made available.

(10) *REPORTING.*—The dashboard referred to in paragraph (5)(A)(i) shall be referenced in the Annual Performance Plan under section 2803, the Annual Performance Report under section 2804, and the Annual Report under section 2402.

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

(A) *PERFORMANCE INFORMATION.*—The term “performance information” means the objective external performance measurements established under section 3691(b)(1)(D).

(B) *WEBSITE.*—The term “Website” means the website described in paragraph (1).

CHAPTER 37—NONPOSTAL SERVICES

Sec.

3701. Purpose.

3702. Definitions.

3703. Postal Service program for State governments.

3704. Postal Service program for other Government agencies.

3705. Transparency and accountability for nonpostal services.

§ 3701. Purpose

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

§ 3702. Definitions

In this chapter—

- (1) the term “nonpostal services” is limited to services offered by the Postal Service that are expressly authorized by this chapter and are not postal products or services;
- (2) the term “attributable costs” has the meaning given such term in section 3631; and
- (3) the term “year” means a fiscal year.

§ 3703. Postal Service program for State governments

(a) *IN GENERAL.*—Notwithstanding any other provision of this title, the Postal Service may establish a program to enter into agreements with an agency of any State government, local government, or tribal government to provide property and services on behalf of such agencies for non-commercial products and services, but only if such property and services—

- (1) provide enhanced value to the public, such as by lowering the cost or raising the quality of such services or by making such services more accessible;
- (2) do not interfere with or detract from the value of postal services, including—
 - (A) the cost and efficiency of postal services; and
 - (B) unreasonably restricting access to postal retail service, such as customer waiting time and access to parking; and

(3) provide a reasonable contribution to the institutional costs of the Postal Service, defined as reimbursement that covers at least 100 percent of attributable costs of all property and services provided under each relevant agreement in each year.

(b) *PUBLIC NOTICE.*—At least 90 days before offering a service under the program, the Postal Service shall make available to the public on its website—

- (1) the agreement with the agency regarding such service; and
- (2) a business plan that describes the specific service to be provided, the enhanced value to the public, terms of reimburse-

ment, the estimated annual reimbursement to the Postal Service, and the estimated percentage of attributable Postal Service costs that will be covered by reimbursement (with documentation to support the estimates).

(c) *PUBLIC COMMENT.*—Before offering a service under the program, the Postal Service shall provide for a public comment period of at least 30 days that allows the public to post comments relating to the provision of such services on the Postal Service website. The Postal Service shall make reasonable efforts to provide written responses to the comments on such website at least 30 days before offering such services.

(d) *APPROVAL REQUIRED.*—The Postal Service may not establish the program under subsection (a) unless the Governors of the Postal Service approve such program by a recorded vote that is publicly disclosed on the Postal Service website with a majority of the total Governors voting for approval.

(e) *APPLICATION OF REPORTING REQUIREMENTS.*—For purposes of the reporting requirements under section 3705, the Postal Service shall submit a separate report for each agreement with an agency entered into under subsection (a) analyzing the costs, revenues, rates, and quality of service for the provision of all services under such agreement, including information demonstrating that the agreement satisfies the requirements of paragraphs (1) through (3) of subsection (a).

(f) *REGULATIONS REQUIRED.*—The Postal Regulatory Commission shall issue such regulations as are necessary to carry out this section.

(g) *DEFINITIONS.*—For the purpose of this section—

(1) the term “local government” means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments, or regional or interstate government entity;

(2) the term “State government” includes the government of 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;

(3) 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)); and

(4) the term “United States”, when used in a geographical sense, means the States, 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.

(h) *CONFIDENTIAL INFORMATION.*—Subsection (b) or (c) shall not be construed as requiring the Postal Service to disclose to the public any information—

(1) described in section 410(c); or

(2) exempt from public disclosure under section 552(b) of title 5.

§3704. Postal Service program for other Government agencies

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

(b) *APPLICATION OF REPORTING REQUIREMENTS.*—For purposes of the reporting requirements under section 3705, the Postal Service shall submit a separate report for each agreement with an agency entered into under subsection (a) analyzing the costs, revenues, rates, and quality of service for the provision of all services under such agreement, including information demonstrating that the agreement satisfies the requirements of subsection (a).

§3705. Transparency and accountability for nonpostal services

(a) *ANNUAL REPORT TO THE COMMISSION.*—

(1) *IN GENERAL.*—Not later than 90 days after the last day of each year, the Postal Service shall submit to the Postal Regulatory Commission a report that analyzes costs, revenues, rates, and quality of service for each agreement for the provision of property and services under this chapter, using such methodologies as the Commission may prescribe, and in sufficient detail to demonstrate compliance with the requirements of this chapter.

(2) *SUPPORTING MATTER.*—A report submitted under paragraph (1) shall include any nonpublic annex, the working papers, and any other supporting matter of the Postal Service and the Inspector General related to the information submitted in such report.

(b) *CONTENT AND FORM OF REPORT.*—

(1) *IN GENERAL.*—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the report required under subsection (a). In prescribing such regulations, the Commission shall give due consideration to—

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

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

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

(2) *REVISED REQUIREMENTS.*—The Commission may, on its own motion or on request of any interested party, initiate proceedings to improve the quality, accuracy, or completeness of Postal Service data required by the Commission if—

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

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

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

(c) **AUDITS.**—*The Inspector General shall regularly audit the data collection systems and procedures used in collecting information and preparing the report required under subsection (a). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.*

(d) **CONFIDENTIAL INFORMATION.**—

(1) **IN GENERAL.**—*If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section contains information described in section 410(c), or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.*

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

(e) **ANNUAL COMPLIANCE DETERMINATION.**—

(1) **OPPORTUNITY FOR PUBLIC COMMENT.**—*Upon receiving a report required under subsection (a), the Postal Regulatory Commission shall promptly—*

(A) *provide an opportunity for comment on such report by any interested party; and*

(B) *appoint an officer of the Commission to represent the interests of the general public.*

(2) **DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.**—*Not later than 90 days after receiving a report required under subsection (a), the Postal Regulatory Commission shall make a written determination as to whether the nonpostal activities carried out during the applicable year were or were not in compliance with the provisions of this chapter. For purposes of this paragraph, any case in which the requirements for coverage of attributable costs have not been met shall be considered to be a case of noncompliance. If, with respect to a year, no instance of noncompliance is found to have occurred, the determination shall be to that effect. Such determination of noncompliance shall be included with the annual compliance determination required under section 3653.*

(3) **NONCOMPLIANCE.**—*If a timely written determination of noncompliance is made under paragraph (2), the Postal Regulatory Commission shall take appropriate action. If the requirements for coverage of attributable costs specified by this chapter are not met, the Commission shall, within 60 days after the determination, prescribe remedial action to restore compliance as soon as practicable, including the full restoration of revenue shortfalls during the following year. The Commission may order the Postal Service to discontinue a nonpostal service under section 3703 that persistently fails to meet cost coverage requirements.*

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

(f) *REGULATIONS REQUIRED.*—*The Postal Regulatory Commission shall issue such regulations as are necessary to carry out this section.*

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INSPECTOR GENERAL ACT OF 1978

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REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

SEC. 8G. (a) Notwithstanding section 12 of this Act, as used in this section—

(1) the term “Federal entity” means any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include—

(A) an establishment (as defined under section 12(2) of this Act) or part of an establishment;

(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;

(C) the Executive Office of the President;

(D) the Central Intelligence Agency;

(E) the General Accounting Office; or

(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

(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 Committee for Purchase From People Who Are Blind or Severely Disabled, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Defense Intelligence Agency, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Deposit Insurance Corporation, 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 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 Development Finance Corporation, the United States International Trade Commission, [the Postal Regulatory Commission,] and the United States Postal Service;

(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) 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) of this section, except that—

(A) with respect to the National Science Foundation, such term means the National Science Board;

(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) 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) with respect to the Committee for Purchase From People Who Are Blind or Severely Disabled, such term means the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled;

(E) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

(F) 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);

(G) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

(H) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities;

(I) with respect to the Peace Corps, such term means the Director of the Peace Corps; and

(J) with respect to the United States International Development Finance Corporation, such term means the Board of Directors of the United States International Development Finance Corporation;

(5) the term “Office of Inspector General” means an Office of Inspector General of a designated Federal entity; and

(6) the term “Inspector General” means an Inspector General of a designated Federal entity.

(b) No later than 180 days after the date of the enactment of this section, there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

(c) Except as provided under subsection (f) of this section, 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.

(d)(1) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. Except as provided in paragraph (2), the head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

(2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the inspector general of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation, or from accessing information available to an element of the intelligence community specified in subparagraph (D), or from accessing information available to an element of the intelligence community specified in subparagraph (D), if the Secretary determines that the prohibition is necessary to protect vital national security interests of the United States.

(B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of such authority not later than 7 days after the exercise of such authority.

(C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the inspector general of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide such inspector general with a copy of such statement. Such inspector general may submit to such committees of Congress any comments on a notice or statement received by the inspector general under this subparagraph that the inspector general considers appropriate.

(D) The elements of the intelligence community specified in this subparagraph are as follows:

- (i) The Defense Intelligence Agency.
- (ii) The National Geospatial-Intelligence Agency.
- (iii) The National Reconnaissance Office.
- (iv) The National Security Agency.

(E) The committees of Congress specified in this subparagraph are—

- (i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and
- (ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(e)(1) In the case of a designated Federal entity for which a board, chairman of a committee, or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a $\frac{2}{3}$ majority of the board, committee, or commission.

(2) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(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] (2) (A) *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.*

(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall function as the Inspector General for the Postal Regulatory Commission, and shall have equal responsibility over the United States Postal Service and the Postal Regulatory Commission. The Commission shall comply with the Inspector General’s oversight as if the Commission were a designated Federal entity under paragraph (a)(2) of this section.

(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)(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—

(A) “designated Federal entity” for “establishment”; and

(B) “head of the designated Federal entity” for “head of the establishment”.

(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section 8D (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

(4) Each Inspector General shall—

(A) in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General;

(B) obtain the services of a counsel appointed by and directly reporting to another Inspector General on a reimbursable basis; or

(C) obtain the services of appropriate staff of the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

(h)(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).

(2) Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which—

(A) states whether there has been established in the Federal entity an office that meets the requirements of this section;

(B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

(C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.

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