

S. 720

At the request of Mr. THUNE, the names of the Senator from Illinois (Mr. KIRK) and the Senator from Ohio (Mr. PORTMAN) were added as cosponsors of S. 720, a bill to repeal the CLASS program.

S. 738

At the request of Ms. STABENOW, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 738, a bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of comprehensive Alzheimer's disease and related dementia diagnosis and services in order to improve care and outcomes for Americans living with Alzheimer's disease and related dementias by improving detection, diagnosis, and care planning.

S. 968

At the request of Mr. LEAHY, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 968, a bill to prevent online threats to economic creativity and theft of intellectual property, and for other purposes.

S. 1106

At the request of Mr. KOHL, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1106, a bill to authorize Department of Defense support for programs on pro bono legal assistance for members of the Armed Forces.

S. 1181

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1181, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1301

At the request of Mr. LEAHY, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1301, a bill to authorize appropriations for fiscal years 2012 to 2015 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in person, and for other purposes.

S. 1335

At the request of Mr. INHOFE, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1335, a bill to amend title 49, United States Code, to provide rights for pilots, and for other purposes.

S. 1392

At the request of Ms. COLLINS, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of S. 1392, a bill to provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for industrial, commercial, and institutional boilers, process heaters, and incinerators, and for other purposes.

S. 1440

At the request of Mr. BENNET, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 1440, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 1460

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1460, a bill to grant the congressional gold medal, collectively, to the First Special Service Force, in recognition of its superior service during World War II.

S. 1527

At the request of Mrs. HAGAN, the names of the Senator from Nevada (Mr. HELLER) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1527, a bill to authorize the award of a Congressional gold medal to the Montford Point Marines of World War II.

S. 1539

At the request of Mr. CORNYN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1539, a bill to provide Taiwan with critically needed United States-built multirole fighter aircraft to strengthen its self-defense capability against the increasing military threat from China.

S. 1571

At the request of Mr. ISAKSON, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from North Dakota (Mr. HOEVEN) were added as cosponsors of S. 1571, a bill to amend title I of the Elementary and Secondary Education Act of 1965, and for other purposes.

S. 1575

At the request of Mr. CARDIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1575, a bill to amend the Internal Revenue Code of 1986 to modify the depreciation recovery period for energy-efficient cool roof systems.

S. 1616

At the request of Mr. ENZI, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1616, a bill to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investments in United States real property interests, and for other purposes.

S. 1651

At the request of Mr. SESSIONS, the names of the Senator from Utah (Mr. LEE) and the Senator from Kentucky (Mr. PAUL) were added as cosponsors of S. 1651, a bill to provide for greater transparency and honesty in the Federal budget process.

S. 1704

At the request of Ms. AYOTTE, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from

Oklahoma (Mr. COBURN) were added as cosponsors of S. 1704, a bill to amend title 10, United States Code, to modify certain authorities relating to the strategic airlift aircraft force structure of the Air Force.

S. 1707

At the request of Mr. BURR, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1707, a bill to amend title 38, United States Code, to clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes.

S. 1731

At the request of Mr. GRASSLEY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1731, a bill to improve the prohibitions on money laundering, and for other purposes.

S. 1762

At the request of Mr. BROWN of Massachusetts, the names of the Senator from New Hampshire (Ms. AYOTTE), the Senator from Wyoming (Mr. BARRASSO), the Senator from Missouri (Mr. BLUNT), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. INHOFE), the Senator from Nebraska (Mr. JOHANNES), the Senator from Idaho (Mr. RISCHE) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1762, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities and to amend the Internal Revenue Code of 1986 to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs.

S. 1769

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1769, a bill to put workers back on the job while rebuilding and modernizing America.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 1769, supra.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. HELLER):

S. 1788. A bill to designate the Pine/Forest Range Wilderness area in Humboldt County, Nevada; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today to introduce the Pine Forest Recreation Enhancement Act of 2011.

The entire Nevada congressional delegation has joined together in support of this important legislation for northern Nevada. The Pine Forest Recreation Enhancement Act would designate 26,000 acres of public lands within the Blue Lakes and Alder Creek Wilderness Study Areas, WSAs, as the Pine Forest Range Wilderness Area while releasing 1,1500 acres of existing WSA lands. The bill also directs the

Bureau of Land Management, BLM, to exchange federal lands nearby ranches in Humboldt County for private parcels within the existing WSAs. These exchanges will allow the BLM to more effectively manage the wilderness area and increase the economic opportunities for the adjacent ranches by providing land for agricultural uses.

This bill is the product of a comprehensive local process that took into consideration the concerns of local landowners, sportsmen, conservationists, and other interested parties in Humboldt County. This diverse group of stakeholders came together to develop this compromise proposal through a series of public meetings and field trips. This process was so successful that, for the first time that I can remember, a wilderness proposal was presented to our delegation with almost unanimous support and the Nevada State Legislature passed a joint resolution endorsing the work of the County commission and the Pine Forest Working Group.

Beyond the widespread state and local support, there is no question that the pristine natural lands and wildlife habitat in the Blue Lakes and Alder Creek WSA should receive the strongest level of protection we can provide for public lands. Rising from the confluence of the Great Basin and Owyhee deserts, the Pine Forest Range boasts high alpine lakes surrounded by granite spires that are home to a variety of large trout including our Lahontan Cutthroat trout that is native only to Nevada. The thick forests of aspen and pine that blanket these mountains provide a stronghold for mule deer, pronghorn, and bighorn sheep. The area is also well known by sportsmen across the west for its world class chukar hunting; a favorite fall pastime for many Nevadans.

Protecting these untouched natural lands in Nevada is important to me and to the people of Humboldt County. I want to thank each member of the Humboldt County Commission, Garley Amos, Mike Bell, Tom Fransway, Dan Cassinelli, and Jim French as well as Bill Deese for their work to bring this legislation to fruition. I would also like to express my gratitude to Jim Jeffress from Trout Unlimited, Shaaron Netherton from the Friends of Nevada Wilderness, and the other members of the Pine Forest Range working group for their tireless efforts that have been universally recognized as the gold standard for developing wilderness proposals.

I look forward to working with Chairman BINGAMAN, Ranking Member MURKOWSKI and the other distinguished members of the Senate Energy Committee to move this legislation forward in the near future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1788

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Pine Forest Range Recreation Enhancement Act of 2011”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Addition to national wilderness preservation system.
- Sec. 5. Administration.
- Sec. 6. Adjacent management.
- Sec. 7. Military overflights.
- Sec. 8. Native American cultural and religious uses.
- Sec. 9. Release of wilderness study areas.
- Sec. 10. Wildlife management.
- Sec. 11. Wildfire, insect, and disease management.
- Sec. 12. Climatological data collection.
- Sec. 13. Land exchanges.

# SEC. 2. FINDINGS.

Congress finds that—

(1) public land in the Pine Forest Range contains unique and spectacular natural resources, including—

(A) priceless habitat for numerous species of plants and wildlife; and

(B) thousands of acres of land that remain in a natural state;

(2) continued preservation of the public land would benefit the County and the United States by—

(A) ensuring the conservation of ecologically diverse habitat;

(B) protecting prehistoric cultural resources;

(C) conserving primitive recreational resources; and

(D) protecting air and water quality; and

(3) designation of the Pine Forest Range as a wilderness area is supported by the State, units of local governments, and the surrounding communities.

# SEC. 3. DEFINITIONS.

In this Act:

(1) COUNTY.—The term “County” means Humboldt County, Nevada.

(2) MAP.—The term “Map” means the map entitled “Proposed Pine Forest Wilderness Area” and dated May 4, 2011.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) STATE.—The term “State” means the State of Nevada.

# SEC. 4. ADDITION TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

(a) DESIGNATION.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 26,000 acres, as generally depicted on the Map is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the “Pine Forest Range Wilderness”.

(b) BOUNDARY.—

(1) ROAD ACCESS.—The boundary of any portion of the wilderness area designated by subsection (a) that is bordered by a road shall be at least 100 feet away from the edge of the road to allow public access.

(2) ROAD ADJUSTMENTS.—The Secretary shall—

(A) reroute the road running through Long Meadow to the west to remove the road from the riparian area;

(B) reroute the road currently running through Rodeo Flat Meadow to the east to remove the road from the riparian area; and

(C) close, except for administrative use, the road along Lower Alder Creek south of Bureau of Land Management road #2083.

(3) RESERVOIR ACCESS.—The boundary of the wilderness area designated by subsection (a) shall be at least 160 feet downstream from the dam at Little Onion Reservoir to allow public access.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the wilderness area designated by subsection (a) with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) WITHDRAWAL.—Subject to valid existing rights, the wilderness area designated by subsection (a) is withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

# SEC. 5. ADMINISTRATION.

(a) MANAGEMENT.—Subject to valid existing rights, the land designated as wilderness by this Act shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary.

(b) LIVESTOCK.—Within the wilderness area designated by this Act, the grazing of livestock in areas administered by the Bureau of Land Management in which grazing is established as of the date of enactment of this Act shall be allowed to continue—

(1) subject to such reasonable regulations, policies, and practices as the Secretary considers to be necessary; and

(2) consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), including the guidelines set forth in Appendix A of House Report 101-405.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundaries of the area designated as wilderness by this Act that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area.

(d) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the land designated as wilderness by this Act is located—

(i) in the semiarid region of the Great Basin; and

(ii) at the headwaters of the streams and rivers on land with respect to which there are few, if any—

(I) actual or proposed water resource facilities located upstream; and

(II) opportunities for diversion, storage, or other uses of water occurring outside the land that would adversely affect the wilderness values of the land;

(B) the land designated as wilderness by this Act is generally not suitable for use or development of new water resource facilities; and

(C) because of the unique nature of the land designated as wilderness by this Act, it is possible to provide for proper management and protection of the wilderness and other values of land in ways different from those used in other laws.

(2) **PURPOSE.**—The purpose of this section is to protect the wilderness values of the land designated as wilderness by this Act by means other than a federally reserved water right.

(3) **STATUTORY CONSTRUCTION.**—Nothing in this Act—

(A) constitutes an express or implied reservation by the United States of any water or water rights with respect to a wilderness designated by this Act;

(B) affects any water rights in the State (including any water rights held by the United States) in existence on the date of enactment of this Act;

(C) establishes a precedent with regard to any future wilderness designations;

(D) affects the interpretation of, or any designation made under, any other Act; or

(E) limits, alters, modifies, or amends any interstate compact or equitable apportionment decree that apportions water among and between the State and other States.

(4) **NEVADA WATER LAW.**—The Secretary shall follow the procedural and substantive requirements of State law in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness area designated by this Act.

(5) **NEW PROJECTS.**—

(A) **DEFINITION OF WATER RESOURCE FACILITY.**—

(i) **IN GENERAL.**—In this paragraph, the term “water resource facility” means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, transmission and other ancillary facilities, and other water diversion, storage, and carriage structures.

(ii) **EXCLUSION.**—In this paragraph, the term “water resource facility” does not include wildlife guzzlers.

(B) **RESTRICTION ON NEW WATER RESOURCE FACILITIES.**—Except as otherwise provided in this Act, on or after the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within a wilderness area, any portion of which is located in the County.

#### SEC. 6. ADJACENT MANAGEMENT.

(a) **IN GENERAL.**—Congress does not intend for the designation of land as wilderness by this Act to create a protective perimeter or buffer zone around the wilderness area.

(b) **NONWILDERNESS ACTIVITIES.**—The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness designated by this Act shall not preclude the conduct of the activities or uses outside the boundary of the wilderness area.

#### SEC. 7. MILITARY OVERFLIGHTS.

Nothing in this Act restricts or precludes—

(1) low-level overflights of military aircraft over the area designated as wilderness by this Act, including military overflights that can be seen or heard within the wilderness area;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness area.

#### SEC. 8. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

Nothing in this Act diminishes—

(1) the rights of any Indian tribe; or

(2) tribal rights regarding access to Federal land for tribal activities, including spiritual, cultural, and traditional food-gathering activities.

#### SEC. 9. RELEASE OF WILDERNESS STUDY AREAS.

(a) **FINDING.**—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the Bureau of Land Management land in any portion of the Blue Lakes and Alder Creek wilderness study areas not designated as wilderness by section 4(a) has been adequately studied for wilderness designation.

(b) **RELEASE.**—Any public land described in subsection (a) that is not designated as wilderness by this Act—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c));

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) cooperative conservation agreements in existence on the date of enactment of this Act; and

(3) shall be subject to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

#### SEC. 10. WILDLIFE MANAGEMENT.

(a) **IN GENERAL.**—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness area designated by this Act.

(b) **MANAGEMENT ACTIVITIES.**—In furtherance of the purposes and principles of the Wilderness Act (16 U.S.C. 1131 et seq.), management activities to maintain or restore fish and wildlife populations and the habitats to support the populations may be carried out within the wilderness area designated by this Act, if the activities are carried out—

(1) consistent with relevant wilderness management plans; and

(2) in accordance with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(B) appropriate policies, such as those set forth in Appendix B of House Report 101-405, including the occasional and temporary use of motorized vehicles if the use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values with the minimal impact necessary to reasonably accomplish those tasks.

(c) **EXISTING ACTIVITIES.**—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101-405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations.

(d) **WILDLIFE WATER DEVELOPMENT PROJECTS.**—Subject to subsection (f), the Secretary shall authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by section 4(a) if—

(1) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and

(2) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

(e) **HUNTING, FISHING, AND TRAPPING.**—

(1) **IN GENERAL.**—The Secretary may designate, by regulation, areas in which, and es-

tablish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by section 4(a).

(2) **CONSULTATION.**—Except in emergencies, the Secretary shall consult with the appropriate State agency before promulgating regulations under paragraph (1).

(f) **COOPERATIVE AGREEMENT.**—

(1) **IN GENERAL.**—The State, including a designee of the State, may conduct wildlife management activities in the wilderness area designated by this Act—

(A) in accordance with the terms and conditions specified in the cooperative agreement between the Secretary and the State entitled “Memorandum of Understanding between the Bureau of Land Management and the Nevada Department of Wildlife Supplement No. 9” and signed November and December 2003, including any amendments to the cooperative agreement agreed to by the Secretary and the State; and

(B) subject to all applicable laws (including regulations).

(2) **REFERENCES; CLARK COUNTY.**—For the purposes of this subsection, any reference to Clark County in the cooperative agreement described in paragraph (1)(A) shall be considered to be a reference to the Pine Forest Range Wilderness.

#### SEC. 11. WILDFIRE, INSECT, AND DISEASE MANAGEMENT.

(a) **IN GENERAL.**—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the Secretary may take such measures in the wilderness designated by this Act as may be necessary for the control of fire, insects, and diseases (including, as the Secretary determines to be appropriate, the coordination of the activities with a State or local agency).

(b) **EFFECT.**—Nothing in this Act precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment).

#### SEC. 12. CLIMATOLOGICAL DATA COLLECTION.

If the Secretary determines that hydrologic, meteorologic, or climatological collection devices are appropriate to further the scientific, educational, and conservation purposes of the wilderness area designated by this Act, nothing in this Act precludes the installation and maintenance of the collection devices within the wilderness area.

#### SEC. 13. LAND EXCHANGES.

(a) **DEFINITIONS.**—In this section:

(1) **FEDERAL LAND.**—The term “Federal land” means Federal land in the County that—

(A) is not segregated or withdrawn on or after the date of enactment of this Act;

(B) is identified for disposal by the Bureau of Land Management through the Winnemucca Resource Management Plan; and

(C) is determined by the Bureau of Land Management to be appropriate for exchange consistent with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(2) **NON-FEDERAL LAND.**—The term “non-Federal land” means land identified on the Map as “non-Federal lands for exchange”.

(b) **ACQUISITION OF LAND AND INTERESTS IN LAND.**—

(1) **IN GENERAL.**—Consistent with applicable law and subject to subsection (c), the Secretary may exchange the Federal land for non-Federal land.

(2) **INCORPORATION OF ACQUIRED LAND.**—Any non-Federal land or interest in non-Federal land in, or adjoining the boundary of, the Pine Forest Range Wilderness Area that is acquired by the United States shall be added

to, and administered as part of, the Pine Forest Range Wilderness Area.

(c) **CONDITIONS.**—Each land exchange under subsection (a) shall be subject to—

(1) the condition that the owner of the non-Federal land pay not less than 50 percent of all costs relating to the land exchange, including the costs of appraisals, surveys, and any necessary environmental clearances; and

(2) such additional terms and conditions as the Secretary may require.

(d) **DEADLINE FOR COMPLETION OF LAND EXCHANGE.**—It is the intent of Congress that the land exchanges under this section be completed by not later than 5 years after the date of enactment of this Act.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. CARPER, and Mr. BROWN of Massachusetts):

S. 1789. A bill to improve, sustain, and transform the United States Postal Service; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, today Senators COLLINS, CARPER, SCOTT BROWN of Massachusetts, and I are introducing bipartisan, compromise legislation to rescue the United States Postal Service, USPS, from financial ruin and secure its commercial health into the future.

Five years ago, Senators COLLINS and CARPER led Congress in the adoption of postal reform legislation. The speed of the migration to internet communications, combined with the recent economic downturn, means we need to revisit the Postal Service's financial viability again. This year, Senator BROWN and I joined Senators COLLINS and CARPER in proposing the 21st Century Postal Service Act.

The Postal Service needs a fundamental restructuring of the way it meets its obligations to the public, to its customers—including individual and business mailers—and to its employees. If our reform legislation is adopted, we are confident this time USPS, which was founded in the 18th century, will survive and flourish into the 21st.

Too many people still rely on the Postal Service for us to sit back and allow its demise. Despite a 22 percent drop in mail volume in four years, the Postal Service will deliver 167 billion pieces this year. It is the second largest private sector employer in our country after Wal-Mart and has 557,000 career employees. It has 32 thousand post offices, which represents more domestic retail outlets than Wal-Mart, Starbucks and McDonalds combined.

The financial health of the USPS has been deteriorating for years. But the rapid changeover to electronic communications and the recent economic downturn have swept it up into a financial death spiral. In this fiscal year, 2011, the Postal Service first projected a total loss of \$8 billion. That was in July. By September, it revised its estimate and now says it will lose \$10 billion. Unless major reform is adopted, the Postal Service will run out of money to deliver the mail sometime next summer.

That is why we are introducing this comprehensive legislation to put a number of cost saving measures in place. Let me summarize just a few of the most important provisions.

Of great interest to the American public will be our provision related to 5-day delivery. As you all know, the Postal Service has been pushing to reduce the number of days it delivers mail each week from six to five. USPS believes this will achieve \$3 billion in savings.

Communities across the country, however, are deeply concerned about what this would mean for people who rely on Saturday delivery for critical medications or newspapers.

We are mindful of these concerns, so our legislation would bar the Postal Service from moving to 5-day delivery until two years after enactment of our bill and, in the meantime, reduce costs in other ways. The Government Accountability Office would have to verify that sufficient savings cannot be achieved without going to 5-day delivery. USPS also would have to identify customers and communities that might be disproportionately affected by 5-day delivery and develop remedies to address their concerns.

Our bill also recognizes that the Postal Service must continue to decrease the number of its employees. Thus, we authorize USPS to offer buyouts to help it transition to a smaller workforce. To ensure the Postal Service can pay for these buyouts, we direct the Office of Personnel Management to refund to the Postal Service what everyone agrees has been an overpayment by USPS into the Federal Employees Retirement System. Using this money to support buyouts, the Postmaster General believes he may be able to reduce the Postal Service workforce by as many as 100,000 employees over the next three years and save \$8 billion a year.

To achieve healthcare savings, we would allow the Postal Service to work with its employee unions and the Office of Personnel Management to try to develop and agree on a new health plan for postal employees. The Postmaster General is confident that he and the postal unions can agree on an approach that could cut healthcare costs significantly, while retaining adequate benefits.

Finally, our bill would help USPS get out from under the onerous weight of its current pre-funding requirements for its retiree health benefits by recalibrating the payments and amortizing them over time. This, too, will provide significant financial relief to the Postal Service.

We know many of our proposals will be controversial. But without taking controversial steps, the Postal Service will not make it. We are pursuing broad changes rather than working around the edges to put the Postal Service back on the road to recovery. The Postmaster General has told us he needs to cut \$20 billion from the USPS'

annual budget, and we are giving him and his employees the tools to make that happen. The bottom line is we must act quickly to prevent a Postal Service collapse and we must act boldly to secure its future.

The U.S. Postal Service is not an 18th Century relic. It is a great 21st Century national asset. But times are changing rapidly and so too must the Postal Service, if it is to survive.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1789

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the "21st Century Postal Service Act of 2011".

#### **SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

#### **TITLE I—POSTAL WORKFORCE MATTERS**

- Sec. 101. Treatment of surplus contributions to Federal Employees Retirement System.
- Sec. 102. Additional service credit.
- Sec. 103. Medicare coverage for Postal Service Medicare eligible annuitants.
- Sec. 104. Restructuring of payments for retiree health benefits.
- Sec. 105. Postal Service Health Benefits Program.
- Sec. 106. Arbitration; labor disputes.

#### **TITLE II—POSTAL SERVICES AND OPERATIONS**

- Sec. 201. Postal facilities.
- Sec. 202. Additional Postal Service planning.
- Sec. 203. Area and district office structure.
- Sec. 204. Retail service standards.
- Sec. 205. Conversion of door delivery points.
- Sec. 206. Limitations on changes to mail delivery schedule.
- Sec. 207. Time limits for consideration of service changes.
- Sec. 208. Public procedures for significant changes to mailing specifications.
- Sec. 209. Nonpostal products and services.

#### **TITLE III—FEDERAL EMPLOYEES' COMPENSATION ACT**

- Sec. 301. Short title; references.
- Sec. 302. Federal workers compensation reforms for retirement-age employees.
- Sec. 303. Augmented compensation for dependents.
- Sec. 304. Schedule compensation payments.
- Sec. 305. Vocational rehabilitation.
- Sec. 306. Reporting requirements.
- Sec. 307. Disability management review; independent medical examinations.
- Sec. 308. Waiting period.
- Sec. 309. Election of benefits.
- Sec. 310. Sanction for noncooperation with field nurses.
- Sec. 311. Subrogation of continuation of pay.
- Sec. 312. Social Security earnings information.
- Sec. 313. Amount of compensation.
- Sec. 314. Technical and conforming amendments.
- Sec. 315. Regulations.

## TITLE IV—OTHER MATTERS

- Sec. 401. Profitability plan.
- Sec. 402. Postal rates.
- Sec. 403. Cooperation with State and local governments; intra-Service agreements.
- Sec. 404. Shipping of wine and beer.
- Sec. 405. Annual report on United States mailing industry.
- Sec. 406. Use of negotiated service agreements.
- Sec. 407. Contract disputes.
- Sec. 408. Contracting provisions.

## SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

- (1) COMMISSION.—The term “Commission” means the Postal Regulatory Commission.
- (2) POSTAL SERVICE.—The term “Postal Service” means the United States Postal Service.

## TITLE I—POSTAL WORKFORCE MATTERS

## SEC. 101. TREATMENT OF SURPLUS CONTRIBUTIONS TO FEDERAL EMPLOYEES RETIREMENT SYSTEM.

Section 8423(b) of title 5, United States Code, is amended—

- (1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

“(5)(A) In this paragraph, the term ‘surplus postal contributions’ means the amount by which the amount computed under paragraph (1)(B) is less than zero.

“(B) For each fiscal year in which the amount computed under paragraph (1)(B) is less than zero, upon request of the Postmaster General, the Director shall transfer to the United States Postal Service from the Fund an amount equal to the surplus postal contributions for that fiscal year for use in accordance with this paragraph.

“(C) For each of fiscal years 2012, 2013, and 2014, if the amount computed under paragraph (1)(B) is less than zero, a portion of the surplus postal contributions for the fiscal year shall be used by the United States Postal Service for the cost of providing to employees of the United States Postal Service who voluntarily separate from service before October 1, 2014—

“(i) voluntary separation incentive payments (including payments to employees who retire under section 8336(d)(2) or 8414(b)(1)(B) before October 1, 2014) that may not exceed the maximum amount provided under section 3523(b)(3)(B) for any employee; and

“(ii) retirement service credits, as authorized under section 8332(p) or 8411(m).

“(D) Any surplus postal contributions for a fiscal year not expended under subparagraph (C) may be used by the United States Postal Service for the purposes of—

“(i) repaying any obligation issued under section 2005 of title 39; or

“(ii) making required payments to—

“(I) the Employees’ Compensation Fund established under section 8147;

“(II) the Postal Service Retiree Health Benefits Fund established under section 8909a;

“(III) the Employees Health Benefits Fund established under section 8909; or

“(IV) the Civil Service Retirement and Disability Fund.”.

## SEC. 102. ADDITIONAL SERVICE CREDIT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8332 of title 5, United States Code, is amended by adding at the end the following:

“(p)(1)(A) For an employee of the United States Postal Service who is covered under this subchapter and voluntarily separates from service before October 1, 2014, at the direction of the United States Postal Service, the Office shall add not more than 1 year (as

specified by the United States Postal Service) to the total creditable service of the employee for purposes of determining entitlement to and computing the amount of an annuity under this subchapter (except for a disability annuity under section 8337).

“(B) An employee who receives additional creditable service under this paragraph may not receive a voluntary separation incentive payment from the United States Postal Service.

“(2)(A) Subject to subparagraph (B), and notwithstanding any other provision of law, no deduction, deposit, or contribution shall be required for service credited under this subsection.

“(B) The actuarial present value of the additional liability of the United States Postal Service to the Fund resulting from this subsection shall be included in the amount calculated under section 8348(h)(1)(A).”.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8411 of title 5, United States Code, is amended by adding at the end the following:

“(m)(1)(A) For an employee of the United States Postal Service who is covered under this chapter and voluntarily separates from service before October 1, 2014, at the direction of the United States Postal Service, the Office shall add not more than 2 years (as specified by the United States Postal Service) to the total creditable service of the employee for purposes of determining entitlement to and computing the amount of an annuity under this chapter (except for a disability annuity under subchapter V of that chapter).

“(B) An employee who receives additional creditable service under this paragraph may not receive a voluntary separation incentive payment from the United States Postal Service.

“(2)(A) Subject to subparagraph (B), and notwithstanding any other provision of law, no deduction, deposit, or contribution shall be required for service credited under this subsection.

“(B) The actuarial present value of the additional liability of the United States Postal Service to the Fund resulting from this subsection shall be included in the amount calculated under section 8423(b)(1)(B).”.

## SEC. 103. MEDICARE COVERAGE FOR POSTAL SERVICE MEDICARE ELIGIBLE ANNUITANTS.

(a) FEDERAL EMPLOYEES HEALTH BENEFITS PLANS.—

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

## “§ 8903c. Postal Service Medicare eligible annuitants

“(a) DEFINITIONS.—In this section—

“(1) the term ‘contract year’ means a calendar year in which health benefits plans are administered under this chapter;

“(2) the term ‘Medicare part A’ means the Medicare program for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

“(3) the term ‘Medicare part B’ means the Medicare program for supplementary medical insurance benefits under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.); and

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

“(A) is an annuitant covered under this chapter whose Government contribution is paid by the Postal Service under section 8906(g)(2); and

“(B) is eligible to enroll in Medicare part A and Medicare part B.

“(b) REQUIREMENT OF MEDICARE ENROLLMENT.—

“(1) POSTAL SERVICE MEDICARE ELIGIBLE ANNUITANTS.—

“(A) IMMEDIATE APPLICATION.—An individual who is a Postal Service Medicare eligible annuitant on the date of enactment of the 21st Century Postal Service Act of 2011 may not continue coverage under this chapter, unless that individual enrolls in Medicare part A and Medicare part B during the special enrollment period established under section 1837(m) of the Social Security Act.

“(B) PROSPECTIVE APPLICATION.—An individual who becomes a Postal Service Medicare eligible annuitant after the date of enactment of the 21st Century Postal Service Act of 2011 may not continue coverage under this chapter, unless after becoming eligible for Medicare part A and Medicare part B that individual enrolls in Medicare part A and Medicare part B during the applicable initial enrollment period under section 1837 of the Social Security Act (42 U.S.C. 1395p).

“(2) FAMILY MEMBERS OF POSTAL SERVICE MEDICARE ELIGIBLE ANNUITANTS.—

“(A) FAMILY MEMBER IS MEDICARE ELIGIBLE.—An individual who, on the date of enactment of the 21st Century Postal Service Act of 2011, is a Postal Service Medicare eligible annuitant, is enrolled in self and family coverage under this chapter, and has a member of the family who is eligible to enroll in Medicare part A and Medicare part B, may not continue coverage under this chapter, unless—

“(i) the family member enrolls in Medicare part A and Medicare part B during the special enrollment period established under section 1837(m) of the Social Security Act; or

“(ii) the individual enrolls for self only coverage under this chapter.

“(B) FAMILY MEMBER BECOMES MEDICARE ELIGIBLE.—An individual who, on the date of enactment of the 21st Century Postal Service Act of 2011, is a Postal Service Medicare eligible annuitant, is enrolled in self and family coverage under this chapter, and has a member of the family who becomes eligible to enroll in Medicare part A and Medicare part B after that date, may not continue coverage under this chapter, unless—

“(i) the family member enrolls in Medicare part A and Medicare part B during the applicable initial enrollment period under section 1837 of the Social Security Act (42 U.S.C. 1395p); or

“(ii) the individual enrolls for self only coverage under this chapter.

“(c) ENROLLMENT OPTIONS.—

(1) ESTABLISHMENT.—For contract years following the date of enactment of the 21st Century Postal Service Act of 2011, the Office shall establish enrollment options for health benefits plans that are open only to Postal Service Medicare eligible annuitants or family members of a Postal Service Medicare eligible annuitants who continue coverage under this chapter in accordance with subsection (b).

(2) ENROLLMENT REQUIREMENT.—Any Postal Service Medicare eligible annuitant or family member of a Postal Service Medicare eligible annuitant who continues coverage under this chapter in accordance with subsection (b) may only enroll in 1 of the enrollment options established under paragraph (1).

(3) VALUE OF COVERAGE.—The Office shall ensure that the aggregate actuarial value of coverage under the enrollment options established under this subsection, in combination with the value of coverage under Medicare part A and Medicare part B, shall be not less than the actuarial value of the most closely corresponding enrollment options available under section 8905.

(4) ENROLLMENT OPTIONS.—

(A) IN GENERAL.—The enrollment options established under paragraph (1) shall include—

“(i) an individual option, for Postal Service Medicare eligible annuitants subject to subsection (b)(1);

“(ii) a self and family option, for Postal Service Medicare eligible annuitants subject to subsection (b)(1) and family members of Postal Service Medicare eligible annuitants subject to subsection (b)(2); and

“(iii) a self and family option, for Postal Service Medicare eligible annuitants subject to subsection (b)(1) and family members of Postal Service Medicare eligible annuitants, including family members not subject to subsection (b)(2).

“(B) SPECIFIC SUB-OPTIONS.—The Office may establish more specific enrollment options within the types of options described under subparagraph (A).

“(5) REDUCED PREMIUMS TO ACCOUNT FOR MEDICARE COORDINATION.—In determining the premiums for the enrollment options under paragraph (4), the Office shall—

“(A) establish a separate claims pool for individuals eligible for coverage under those options; and

“(B) ensure that—

“(i) the premiums are reduced from the premiums otherwise established under this chapter to directly reflect the full cost savings to the health benefits plans due to the complete coordination of benefits with Medicare part A and Medicare part B for Postal Service Medicare eligible annuitants or family members of Postal Service Medicare eligible annuitants who continue coverage under this chapter; and

“(ii) the cost savings described under clause (i) result solely in the reduction of—

“(I) the premiums paid by the Postal Service Medicare eligible annuitant; and

“(II) the Government contributions paid by the Postal Service.

“(d) CONVERSION OF ENROLLMENT.—

“(1) IN GENERAL.—For any individual who enrolls in Medicare part A and Medicare part B in accordance with subsection (b) other than during the special enrollment period established under section 1837(m) of the Social Security Act, coverage under this chapter shall be converted to coverage under the applicable enrollment option established under subsection (c) upon enrollment in Medicare part A and Medicare part B.

“(2) NOTIFICATION.—The Office shall provide reasonable advance notice to any Postal Service Medicare eligible annuitant or family member of any Postal Service Medicare eligible annuitant that such annuitant or family member will become subject to conversion of enrollment under paragraph (1).

“(e) POSTAL SERVICE CONSULTATION.—The Office shall establish the enrollment options and premiums under this section in consultation with the Postal Service.”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—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 Medicare eligible annuitants.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to contract years beginning 6 months following the date of enactment of this Act.

(b) SPECIAL ENROLLMENT PERIOD FOR POSTAL SERVICE MEDICARE ELIGIBLE ANNUITANTS.—

(1) SPECIAL ENROLLMENT PERIOD.—

(A) IN GENERAL.—Section 1837 of the Social Security Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

“(m)(1) In the case of any individual who is a Postal Service Medicare eligible annuitant (as defined in section 8903c(a) of title 5, United States Code) at the time the indi-

vidual 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 6-month period, beginning on the first day of the month which includes the date of enactment of the 21st Century Postal Service Act of 2011.

“(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.”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to elections made with respect to initial enrollment periods that end after the date of enactment of the 21st Century Postal Service Act of 2011.

(2) WAIVER OF INCREASE OF PREMIUM.—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended by striking “(i)(4) or (1)” and inserting “(i)(4), (1), or (m)”.

#### SEC. 104. RESTRUCTURING OF PAYMENTS FOR RETIREE HEALTH BENEFITS.

(a) CONTRIBUTIONS.—Section 8906(g)(2)(A) of title 5, United States Code, is amended by striking “through September 30, 2016, be paid by the United States Postal Service, and thereafter shall” and inserting “after the date of enactment of the 21st Century Postal Service Act of 2011”.

(b) POSTAL SERVICE RETIREE HEALTH BENEFITS FUND.—Section 8909a of title 5, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (2)(B)—

(i) by striking “2017” and inserting “2012”; and

(ii) by inserting after “later, of” the following: “80 percent of”; and

(B) in paragraph (3)—

(i) in subparagraph (A)—

(I) in clause (iii), by adding “and” at the end;

(II) in clause (iv), by striking the semicolon at the end and inserting a period; and

(III) by striking clauses (v) through (x); and

(ii) in subparagraph (B), by striking “2017” and inserting “2012”; and

(2) by adding at the end the following:

“(e) Subsections (a) through (d) shall be subject to section 105 of the 21st Century Postal Service Act of 2011.”.

#### SEC. 105. POSTAL SERVICE HEALTH BENEFITS PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term “covered employee” means an employee of the Postal Service who is represented by a bargaining representative recognized under section 1203 of title 39, United States Code;

(2) the term “Federal Employee Health Benefits Program” means the health benefits program under chapter 89 of title 5, United States Code; and

(3) the term “Postal Service Health Benefits Program” means the health benefits program that may be agreed to under subsection (b)(1).

(b) COLLECTIVE BARGAINING.—

(1) IN GENERAL.—Consistent with section 1005(f) of title 39, United States Code, the Postal Service may negotiate jointly with all bargaining representatives recognized under section 1203 of title 39, United States Code, and enter into a joint collective bargaining agreement with those bargaining representatives to establish the Postal Service Health Benefits Program that satisfies

the conditions under subsection (c). The Postal Service and the bargaining representatives shall negotiate in consultation with the Director of the Office of Personnel Management.

(2) ARBITRATION LIMITATION.—Notwithstanding chapter 12 of title 39, United States Code, there shall not be arbitration of any dispute in the negotiations under this subsection.

(3) TIME LIMITATION.—The authority under this subsection shall extend until September 30, 2012.

(c) POSTAL SERVICE HEALTH BENEFITS PROGRAM.—The Postal Service Health Benefits Program—

(1) shall—

(A) be available for participation by all covered employees;

(B) provide adequate and appropriate health benefits;

(C) be administered by the Postmaster General; and

(D) provide for transition of coverage under the Federal Employee Health Benefits Program of covered employees to coverage under the Postal Service Health Benefits Program on January 1, 2013;

(2) may provide dental benefits; and

(3) may provide vision benefits.

(d) AGREEMENT AND IMPLEMENTATION.—If a joint agreement is reached under subsection (b)—

(1) the Postal Service shall implement the Postal Service Health Benefits Program;

(2) the Postal Service Health Benefits Program shall constitute an agreement between the collective bargaining representatives and the Postal Service for purposes of section 1005(f) of title 39, United States Code; and

(3) covered employees may not participate as employees in the Federal Employees Health Benefits Program.

(e) GOVERNMENT PLAN.—The Postal Service Health Benefits Program shall be a government plan as that term is defined under section 3(32) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32)).

(f) REPORT.—Not later than June 30, 2013, the Postal Service shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives that—

(1) reports on the implementation of this section; and

(2) requests any additional statutory authority that the Postal Service determines is necessary to carry out the purposes of this section.

#### SEC. 106. ARBITRATION; LABOR DISPUTES.

Section 1207(c)(2) of title 39, United States Code, is amended—

(1) by inserting “(A)” after “(2)”;

(2) by striking the last sentence and inserting “The arbitration board shall render a decision not later than 45 days after the date of its appointment.”; and

(3) by adding at the end the following:

“(B) In rendering a decision under this paragraph, the arbitration board shall consider such relevant factors as—

“(i) the financial condition of the Postal Service;

“(ii) the requirements relating to pay and compensation comparability under section 1003(a); and

“(iii) the policies of this title.”.

### TITLE II—POSTAL SERVICES AND OPERATIONS

#### SEC. 201. POSTAL FACILITIES.

Section 404 of title 39, United States Code, is amended by adding after subsection (e) the following:

“(f) CLOSING OR CONSOLIDATION OF CERTAIN POSTAL FACILITIES.—



“(1) POSTAL FACILITY.—In this subsection, the term ‘postal facility’ does not include—

“(A) any post office, station, or branch; or  
“(B) any facility used only for administrative functions.

“(2) AREA MAIL PROCESSING STUDY.—

“(A) NEW AREA MAIL PROCESSING STUDIES.—After the date of enactment of this subsection, before making a determination under subsection (a)(3) as to the necessity for the closing or consolidation of any postal facility, the Postal Service shall—

“(i) conduct an area mail processing study relating to that postal facility that includes a plan to reduce the capacity of the postal facility, but not close the postal facility;

“(ii) publish the study on the Postal Service website; and

“(iii) publish a notice that the study is complete and available to the public, including on the Postal Service website.

“(B) COMPLETED OR ONGOING AREA MAIL PROCESSING STUDIES.—

“(i) IN GENERAL.—In the case of a postal facility described in clause (ii), the Postal Service shall—

“(I) consider a plan to reduce the capacity of the postal facility, but not close the post facility; and

“(II) publish the results of the consideration under subclause (I) with or as an amendment to the area mail processing study relating to the postal facility.

“(ii) POSTAL FACILITIES.—A postal facility described in this clause is a postal facility for which, on or before the date of enactment of this subsection—

“(I) an area mail processing study that does not include a plan to reduce the capacity of the postal facility, but not close the facility, has been completed or is in progress; and

“(II) a determination as to the necessity for the closing or consolidation of the postal facility has not been made.

“(3) NOTICE; PUBLIC COMMENT; AND PUBLIC HEARING.—If the Postal Service makes a determination under subsection (a)(3) to close or consolidate a postal facility, the Postal Service shall—

“(A) provide notice of the determination to—

“(i) Congress; and

“(ii) the Postal Regulatory Commission;

“(B) provide adequate public notice of the intention of the Postal Service to close or consolidate the postal facility;

“(C) ensure that interested persons have an opportunity to submit public comments during a 45-day period after the notice of intention is provided under subparagraph (B);

“(D) before that 45-day period provide for public notice of that opportunity by—

“(i) publication on the Postal Service website;

“(ii) posting at the affected postal facility; and

“(iii) advertising the date and location of the public community meeting under subparagraph (E); and

“(E) during the 45-day period described under subparagraph (C), conduct a public community meeting that provides an opportunity for public comments to be submitted verbally or in writing.

“(4) FURTHER CONSIDERATIONS.—Not earlier than 30 days after the end of the 45-day period for public comment under paragraph (3), the Postal Service, in making a determination whether or not to close or consolidate a postal facility, shall consider—

“(A) the views presented by interested persons solicited under paragraph (3);

“(B) the effect of the closing or consolidation on the affected community, including any disproportionate impact the closure or consolidation may have on a State, region, or locality;

“(C) the effect of the closing or consolidation on the travel times and distances for affected customers to access services under the proposed closing or consolidation;

“(D) the effect of the closing or consolidation on delivery times for all classes of mail;

“(E) any characteristics of certain geographical areas, such as remoteness, broadband internet availability, and weather-related obstacles to using alternative facilities, that may result in the closing or consolidation having a unique effect; and

“(F) any other factor the Postal Service determines is necessary.

“(5) JUSTIFICATION STATEMENT.—Before the date on which the Postal Service closes or consolidates a postal facility, the Postal Service shall post on the Postal Service website a closure or consolidation justification statement that includes—

“(A) a response to all public comments received with respect to the considerations described under paragraph (4);

“(B) a description of the considerations made by the Postal Service under paragraph (4); and

“(C) the actions that will be taken by the Postal Service to mitigate any negative effects identified under paragraph (4).

“(6) CLOSING OR CONSOLIDATION OF POSTAL FACILITIES.—

“(A) IN GENERAL.—Not earlier than the 15 days after posting and publishing the final determination and the justification statement under paragraph (6) with respect to a postal facility, the Postal Service may close or consolidate the postal facility.

“(B) ALTERNATIVE INTAKE OF MAIL.—If the Postal Service closes or consolidates a postal facility under subparagraph (A), the Postal Service shall make reasonable efforts to ensure continued mail receipt from customers of the closed or consolidated postal facility at the same location or at another appropriate location in close geographic proximity to the closed or consolidated postal facility.

“(7) POSTAL SERVICE WEBSITE.—For purposes of any notice required to be published on the Postal Service website under this subsection, the Postal Service shall ensure that the Postal Service website—

“(A) is updated routinely; and

“(B) provides any person, at the option of the person, the opportunity to receive relevant updates by electronic mail.”.

## SEC. 202. ADDITIONAL POSTAL SERVICE PLANNING.

Section 302(d) of the Postal Accountability and Enhancement Act of 2006 (39 U.S.C. 3691 note) is amended—

(1) in paragraph (8), by striking the period at the end and inserting “; and”;

(2) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively, and adjusting the margins accordingly;

(3) in the matter preceding subparagraph (A), as so redesignated, by striking “shall include” and inserting the following: “shall—

“(1) include”; and

(4) by adding at the end the following:

“(2) where possible, provide for an improvement in customer access to postal services;

“(3) consider the impact of any decisions by the Postal Service relating to the implementation of the plan on small communities and rural areas; and

“(4) ensure that—

“(A) small communities and rural areas continue to receive regular and effective access to retail postal services after implementation of the plan; and

“(B) the Postal Service solicits community input in accordance with applicable provisions of Federal law.”.

## SEC. 203. AREA AND DISTRICT OFFICE STRUCTURE.

(a) PLAN REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Postal Service shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Governmental Reform of the House of Representatives—

(1) a comprehensive strategic plan to govern decisions relating to area and district office structure that considers efficiency, costs, redundancies, mail volume, technological advancements, operational considerations, and other issues that may be relevant to establishing an effective area and district office structure; and

(2) a 10-year plan, including a timetable, that provides for consolidation of area and district offices wherever the Postal Service determines a consolidation would—

(A) be cost-effective; and

(B) not substantially and adversely affect the operations of the Postal Service.

(b) CONSOLIDATION.—Beginning not later than 1 year after the date of enactment of this Act, the Postal Service shall, consistent with the plans required under subsection (a)—

(1) consolidate district offices that are located within 50 miles of each other;

(2) consolidate area and district offices that have less than the mean mail volume and number of work hours for all area and district offices; and

(3) relocate area offices to headquarters.

(c) UPDATES.—The Postal Service shall update the plans required under subsection (a) not less frequently than once every 5 years.

## SEC. 204. RETAIL SERVICE STANDARDS.

(a) ESTABLISHMENT OF SERVICE STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Postal Service shall exercise its authority under section 3691 of title 39, United States Code, to establish service standards for market-dominant products in order to guarantee customers of the Postal Service regular and effective access to retail postal services nationwide (including in territories and possessions of the United States) on a reasonable basis.

(b) CONTENTS.—The service standards established under subsection (a) shall—

(1) be consistent with—

(A) the obligations of the Postal Service under section 101(b) of title 39, United States Code; and

(B) the contents of the plan developed under section 302 of the Postal Accountability and Enhancement Act of 2006 (39 U.S.C. 3691 note), as amended by section 202 of this Act; and

(2) take into account factors including—

(A) geography, including the establishment of standards for the proximity of retail postal services to postal customers, including a consideration of the reasonable maximum time a postal customer should expect to travel to access a postal retail location;

(B) population, including population density, demographic factors such as the age and disability status of individuals in the area to be served by a location providing postal retail services, and other factors that may impact the ability of postal customers, including businesses, to travel to a postal retail location;

(C) the feasibility of offering retail access to postal services in addition to post offices, as described in section 302(d) of the Postal Accountability and Enhancement Act of 2006 (39 U.S.C. 3691 note); and

(D) the requirement that the Postal Service serve remote areas and communities with transportation challenges, including communities in which the effects of inclement weather or other natural conditions might obstruct or otherwise impede access to retail postal services.

**SEC. 205. CONVERSION OF DOOR DELIVERY POINTS.**

(a) IN GENERAL.—Subchapter VII of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

**“§ 3692. Conversion of door delivery points**

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) CENTRALIZED DELIVERY POINT.—The term ‘centralized delivery point’ means a group or cluster of mail receptacles at 1 delivery point that is within reasonable proximity of the street address associated with the delivery point.

“(2) CURBLINE DELIVERY POINT.—The term ‘curbline delivery point’ means a delivery point that is—

“(A) adjacent to the street address associated with the delivery point; and

“(B) accessible by vehicle on a street that is not a private driveway.

“(3) DOOR DELIVERY POINT.—The term ‘door delivery point’ means a delivery point at a door of the structure at a street address.

“(4) SIDEWALK DELIVERY POINT.—The term ‘sidewalk delivery point’ means a delivery point on a sidewalk adjacent to the street address associated with the delivery point.

“(b) CONVERSION.—Except as provided in subsection (c), not later than September 30, 2015, in accordance with standards established by the Postal Service, the Postal Service may, where feasible, convert door delivery points to—

“(1) curbline delivery points;

“(2) sidewalk delivery points; or

“(3) centralized delivery points.

“(c) EXCEPTIONS.—

“(1) CONTINUED DOOR DELIVERY.—The Postal Service may allow for the continuation of door delivery due to—

“(A) a physical hardship of a customer;

“(B) weather, in a geographic area where snow removal efforts could obstruct access to mailboxes near a road;

“(C) circumstances in an urban area that preclude efficient use of curbside delivery points;

“(D) other exceptional circumstances, as determined in accordance with regulations issued by the Postal Service; or

“(E) other circumstances in which the Postal Service determines that alternatives to door delivery would not be practical or cost effective.

“(2) NEW DOOR DELIVERY POINTS.—The Postal Service may provide door delivery to a new delivery point in a delivery area that received door delivery on the day before the date of enactment of this section, if the delivery point is established before the delivery area is converted from door delivery under subsection (b).

“(d) SOLICITATION OF COMMENTS.—The Postal Service shall establish procedures to solicit, consider, and respond to input from individuals affected by a conversion under this section.

“(e) REVIEW.—Subchapter V of this chapter shall not apply with respect to any action taken by the Postal Service under this section.

“(f) REPORT.—Not later than 60 days after the end of each fiscal year through fiscal year 2015, the Postal Service shall submit to Congress and the Inspector General of the Postal Service a report on the implementation of this section during the preceding fiscal year that—

“(1) includes the number of door delivery points—

“(A) that existed at the end of the fiscal year preceding the preceding fiscal year;

“(B) that existed at the end of the preceding fiscal year;

“(C) that, during the preceding fiscal year, converted to—

“(i) curbline delivery points or sidewalk delivery points;

“(ii) centralized delivery points; and

“(iii) any other type of delivery point; and

“(D) for which door delivery was continued under subsection (c)(1);

“(2) estimates the cost savings from the conversions from door delivery that occurred during the preceding fiscal year;

“(3) describes the progress of the Postal Service toward achieving the requirements under subsection (b); and

“(4) provides such additional information as the Postal Service considers appropriate.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter VII of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

“3692. Conversion of door delivery points.”.

**SEC. 206. LIMITATIONS ON CHANGES TO MAIL DELIVERY SCHEDULE.**

(a) LIMITATION ON CHANGE IN SCHEDULE.—Notwithstanding any other provision of law—

(1) the Postal Service may not establish a general, nationwide 5-day-per-week delivery schedule to street addresses under the authority of the Postal Service under section 3691 of title 39, United States Code, earlier than the date that is 24 months after the date of enactment of this Act; and

(2) on or after the date that is 24 months after the date of enactment of this Act, the Postal Service may establish a general, nationwide 5-day-per-week delivery schedule to street addresses under the authority of the Postal Service under section 3691 of title 39, United States Code, only in accordance with the requirements and limitations under this section.

(b) PRECONDITIONS.—If the Postal Service intends to establish a change in delivery schedule under subsection (a)(2), the Postal Service shall—

(1) identify customers and communities for whom the change may have a disproportionate, negative impact, including the customers identified as “particularly affected” in the Advisory Opinion on Elimination of Saturday Delivery issued by the Commission on March 24, 2011;

(2) develop, to the maximum extent possible, measures to ameliorate any disproportionate, negative impact the change would have on customers and communities identified under paragraph (1), including, where appropriate, providing or expanding access to mailboxes for periodical mailers on days on which the Postal Service does not provide delivery;

(3) implement measures to increase revenue and reduce costs, including the measures authorized under the amendments made by sections 101, 102, 103, 104, 204, and 208 of this Act;

(4) evaluate whether any increase in revenue or reduction in costs resulting from the measures implemented under paragraph (3) are sufficient to allow the Postal Service, without implementing a change in delivery schedule under subsection (a), to—

(A) become profitable by fiscal year 2015; and

(B) achieve long-term financial solvency; and

(5) not earlier than 15 months after the date of enactment of this Act and not later than 9 months before the effective date proposed by the Postal Service for the change, submit a report on the steps the Postal Service has taken to carry out this subsection to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives;

(B) the Comptroller General of the United States; and

(C) the Commission.

(c) REVIEW.—

(1) GOVERNMENT ACCOUNTABILITY OFFICE.—Not later than 3 months after the date on which the Postal Service submits a report under subsection (b)(5), the Comptroller General shall submit to the Commission and to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report that contains findings relating to each of the following:

(A) Whether the Postal Service has adequately complied with subsection (b)(3), taking into consideration the statutory authority of and limitations on the Postal Service.

(B) The accuracy of any statement by the Postal Service that the measures implemented under subsection (b)(3) have increased revenues or reduced costs, and the accuracy of any projection by the Postal Service relating to increased revenue or reduced costs resulting from the measures implemented under subsection (b)(3).

(C) The adequacy and methodological soundness of any evaluation conducted by the Postal Service under subsection (b)(4) that led the Postal Service to assert the necessity of a change in delivery schedule under subsection (a)(2).

(D) Whether, based on an analysis of the measures implemented by the Postal Service to increase revenues and reduce costs, projections of increased revenue and cost savings, and the details of the profitability plan required under section 401, a change in delivery schedule is necessary to allow the Postal Service to—

(i) become profitable by fiscal year 2015; and

(ii) achieve long-term financial solvency.

(2) POSTAL REGULATORY COMMISSION.—

(A) REQUEST.—Not later than 6 months before the proposed effective date of a change in delivery schedule under subsection (a), the Postal Service shall submit to the Commission a request for an advisory opinion relating to the change.

(B) ADVISORY OPINION.—

(i) IN GENERAL.—The Commission shall—

(I) issue an advisory opinion with respect to a request under subparagraph (A), in accordance with the time limits for the issuance of advisory opinions under section 3661(b)(2) of title 39, United States Code, as amended by this Act; and

(II) submit the advisory opinion to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

(ii) REQUIRED DETERMINATIONS.—An advisory opinion under clause (i) shall determine—

(I) whether the measures developed under subsection (b)(2) ameliorate any disproportionate, negative impact that a change in schedule may have on customers and communities identified under subsection (b)(1); and

(II) based on the report submitted by the Comptroller General under paragraph (1)—

(aa) whether the Postal Service has implemented measures to reduce operating losses as required under subsection (b)(3);

(bb) whether the implementation of the measures described in item (aa) has increased revenues or reduced costs, or is projected to further increase revenues or reduce costs in the future; and

(cc) whether a change in schedule under subsection (a)(2) is necessary to allow the Postal Service to—

(AA) become profitable by fiscal year 2015; and



(BB) achieve long-term financial solvency.

(3) PROHIBITION ON IMPLEMENTATION OF CHANGE IN SCHEDULE.—The Postal Service may not implement a change in delivery schedule under subsection (a)(2)—

(A) before the date on which the Comptroller General submits the report required under paragraph (1); and

(B) unless the Commission determines under paragraph (2)(B)(i)(II)(cc) that the Comptroller General has concluded that the change is necessary to allow the Postal Service to become profitable by fiscal year 2015 and to achieve long-term financial solvency, without regard to whether the Commission determines that the change is advisable.

(d) ADDITIONAL LIMITATIONS.—

(1) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

(A) authorize the reduction, or require an increase, in delivery frequency for any route for which the Postal Service provided delivery on fewer than 6 days per week on the date of enactment of this Act;

(B) authorize any change in—

(i) the days and times that postal retail service or any mail acceptance is available; or

(ii) the locations at which postal retail service or mail acceptance occurs;

(C) authorize any change in the frequency of delivery to a post office box;

(D) prohibit the collection or delivery of a competitive mail product on a weekend or a recognized Federal holiday; or

(E) prohibit the Postal Service from exercising its authority to make changes to processing or retail networks.

(2) PROHIBITION ON CONSECUTIVE DAYS WITHOUT MAIL DELIVERY.—The Postal Service shall ensure that, under any change in schedule under subsection (a)(2), at no time shall there be more than 2 consecutive days without mail delivery to street addresses, including recognized Federal holidays.

#### SEC. 207. TIME LIMITS FOR CONSIDERATION OF SERVICE CHANGES.

Section 3661 of title 39, United States Code, is amended by striking subsections (b) and (c) and inserting the following:

“(b) PROPOSED CHANGES FOR MARKET-DOMINANT PRODUCTS.—

“(1) SUBMISSION OF PROPOSAL.—If the Postal Service determines that there should be a change in the nature of postal services relating to market-dominant products that will generally affect service on a nationwide or substantially nationwide basis, the Postal Service shall submit a proposal to the Postal Regulatory Commission requesting an advisory opinion on the change.

“(2) ADVISORY OPINION.—Upon receipt of a proposal under paragraph (1), the Postal Regulatory Commission shall—

“(A) provide an opportunity for public comment on the proposal; and

“(B) issue an advisory opinion not later than—

“(i) 90 days after the date on which the Postal Regulatory Commission receives the proposal; or

“(ii) a date that the Postal Regulatory Commission and the Postal Service may, not later than 1 week after the date on which the Postal Regulatory Commission receives the proposal, determine jointly.

“(3) RESPONSE TO OPINION.—The Postal Service shall submit to the President and to Congress a response to the advisory opinion issued under paragraph (2), including any recommendations contained therein.

“(4) ACTION ON PROPOSAL.—The Postal Service may take action regarding a proposal submitted under paragraph (1)—

“(A) on or after the date that is 30 days after the date on which the Postal Service submits the response required under paragraph (3);

“(B) on or after a date that the Postal Regulatory Commission and the Postal Service may, not later than 1 week after the date on which the Postal Regulatory Commission receives a proposal under paragraph (2), determine jointly; or

“(C) after the date described in paragraph (2)(B), if—

“(i) the Postal Regulatory Commission fails to issue an advisory opinion on or before the date described in paragraph (2)(B); and

“(ii) the action is not otherwise prohibited under Federal law.

“(5) MODIFICATION OF TIMELINE.—At any time, the Postal Service and the Postal Regulatory Commission may jointly redetermine a date determined under paragraph (2)(B)(i) or (4)(B).”.

#### SEC. 208. PUBLIC PROCEDURES FOR SIGNIFICANT CHANGES TO MAILING SPECIFICATIONS.

(a) NOTICE AND OPPORTUNITY FOR COMMENT REQUIRED.—Effective on the date on which the Postal Service issues a final rule under subsection (c), before making a change to mailing specifications that could pose a significant burden to the customers of the Postal Service and that is not reviewed by the Commission, the Postal Service shall—

(1) publish a notice of the proposed change to the specification in the Federal Register;

(2) provide an opportunity for the submission of written comments concerning the proposed change for a period of not less than 30 days;

(3) after considering any comments submitted under paragraph (2) and making any modifications to the proposed change that the Postal Service determines are necessary, publish—

(A) the final change to the specification in the Federal Register;

(B) responses to any comments submitted under paragraph (2); and

(C) an analysis of the financial impact that the proposed change would have on—

(i) the Postal Service; and

(ii) the customers of the Postal Service that would be affected by the proposed change; and

(4) establish an effective date for the change to mailing specifications that is not earlier than 30 days after the date on which the Postal Service publishes the final change under paragraph (3).

(b) EXCEPTION FOR GOOD CAUSE.—If the Postal Service determines that there is an urgent and compelling need for a change to a mailing specification described in subsection (a) in order to avoid demonstrable harm to the operations of the Postal Service or to the public interest, the Postal Service may—

(1) change the mailing specifications by—

(A) issuing an interim final rule that—

(i) includes a finding by the Postal Service that there is good cause for the interim final rule;

(ii) provides an opportunity for the submission of written comments on the interim final rule for a period of not less than 30 days; and

(iii) establishes an effective date for the interim final rule that is not earlier than 30 days after the date on which the interim final rule is issued; and

(B) publishing in the Federal Register a response to any comments submitted under subparagraph (A)(ii); and

(2) waive the requirement under paragraph (1)(A)(iii) or subsection (a)(4).

(c) RULES RELATING TO NOTICE AND COMMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Postal Service shall issue rules governing the provision of notice and opportunity for

comment for changes in mailing specifications under subsection (a).

(2) RULES.—In issuing the rules required under paragraph (1), the Postal Service shall—

(A) publish a notice of proposed rule-making in the Federal Register that includes proposed definitions of the terms “mailing specifications” and “significant burden”;;

(B) provide an opportunity for the submission of written comments concerning the proposed change for a period of not less than 30 days; and

(C) publish—

(i) the rule in final form in the Federal Register; and

(ii) responses to the comments submitted under subparagraph (B).

#### SEC. 209. NONPOSTAL PRODUCTS AND SERVICES.

(a) IN GENERAL.—Section 404 of title 39, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(B) by inserting after paragraph (5) the following:

“(6) after the date of enactment of the 21st Century Postal Service Act of 2011, and except as provided in subsection (e), to provide other services that are not postal services, after the Postal Regulatory Commission—

“(A) makes a determination that the provision of such services—

“(i) uses the processing, transportation, delivery, retail network, or technology of the Postal Service;

“(ii) is consistent with the public interest and a demonstrated or potential public demand for—

“(I) the Postal Service to provide the services instead of another entity providing the services; or

“(II) the Postal Service to provide the services in addition to another entity providing the services;

“(iii) would not create unfair competition with the private sector; and

“(iv) has the potential to improve the net financial position of the Postal Service, based on a market analysis provided to the Postal Regulatory Commission by the Postal Service; and

“(B) for services that the Postal Regulatory Commission determines meet the criteria under subparagraph (A), classifies each such service as a market-dominant product, competitive product, experimental product, or new product, as required under chapter 36 of title 39, United States Code;”;

(2) in subsection (e)(2), by striking “Nothing” and all that follows through “except that the” and inserting “The”.

(b) MARKET ANALYSIS.—During the 5-year period beginning on the date of enactment of this Act, the Postal Service shall submit a copy of any market analysis provided to the Commission under section 404(a)(6)(A)(iv) of title 39, United States Code, as amended by this section, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

#### TITLE III—FEDERAL EMPLOYEES' COMPENSATION ACT

##### SEC. 301. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the “Workers’ Compensation Reform Act of 2011”.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 5, United States Code.

# **SEC. 302. FEDERAL WORKERS COMPENSATION REFORMS FOR RETIREMENT-AGE EMPLOYEES.**

(a) CONVERSION OF ENTITLEMENT AT RETIREMENT AGE.—

(1) DEFINITIONS.—Section 8101 is amended

(A) in paragraph (18), by striking “and” at the end;

(B) in paragraph (19), by striking “and” at the end;

(C) in paragraph (20), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

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

“(22) ‘covered claim for total disability’ means a claim for a period of total disability that commenced before the date of enactment of the Workers’ Compensation Reform Act of 2011;

“(23) ‘covered claim for partial disability’ means a claim for a period of partial disability that commenced before the date of enactment of the Workers’ Compensation Reform Act of 2011; and

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

“(A) who—

“(i) is eligible to receive continuous periodic compensation for total disability under section 8105 on the date of enactment of the Workers’ Compensation Reform Act of 2011; and

“(ii) meets the criteria under 8105(c);

“(B) who, on the date of enactment of the Workers’ Compensation Reform Act of 2011—

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

“(ii) has sustained a currently irreversible severe mental or physical disability for which the Secretary of Labor has authorized, for at least the 1 year period ending on the date of enactment of the Workers’ Compensation Reform Act of 2011, constant in-home care or custodial care, such as in placement in a nursing home; or

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

“(i) for not less than the 3-year period ending on the date of enactment of the Workers’ Compensation Reform Act of 2011; or

“(ii) if the individual became eligible to receive continuous periodic compensation for total disability under section 8105 during the period beginning on the date that is 3 years before the date of enactment of the Workers’ Compensation Reform Act of 2011 and ending on such date of enactment, for not less than the 3-year period beginning on the date on which the individual became eligible.”.

(2) TOTAL DISABILITY.—Section 8105 is amended—

(A) in subsection (a), by striking “If” and inserting “IN GENERAL.—Subject to subsection (b), if”;

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

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

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

“(2) EXCEPTIONS.—

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

“(i) on the date of enactment of the Workers’ Compensation Reform Act of 2011, has attained retirement age; or

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

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

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

“(ii) the date that is 3 years after the date of enactment of the Workers’ Compensation Reform Act of 2011.”.

(3) PARTIAL DISABILITY.—Section 8106 is amended—

(A) in subsection (a), by striking “If” and inserting “IN GENERAL.—Subject to subsection (b), if”;

(B) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following:

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

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

“(2) EXCEPTIONS.—

“(A) COVERED RECIPIENTS WHO ARE RETIREMENT AGE.—Paragraph (1) shall not apply to a covered claim for partial disability by an employee if, on the date of enactment of the Workers’ Compensation Reform Act of 2011, the employee has attained retirement age.

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

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

“(ii) the date that is 3 years after the date of enactment of the Workers’ Compensation Reform Act of 2011.”.

## **SEC. 303. AUGMENTED COMPENSATION FOR DEPENDENTS.**

(a) IN GENERAL.—Section 8110 is amended—

(1) by redesignating subsection (b) as subsection (c); and

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

“(b) TERMINATION OF AUGMENTED COMPENSATION.—

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

“(2) EXCEPTIONS.—

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

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

“(ii) the employee shall receive augmented compensation under subsection (c) until the date that is 3 years after the date of enactment of the Workers’ Compensation Reform Act of 2011 if the employee is not an employee described in clause (i).

“(B) PARTIAL DISABILITY.—For a covered claim for partial disability by an employee, the employee shall receive augmented compensation under subsection (c) until the date that is 3 years after the date of enactment of the Workers’ Compensation Reform Act of 2011.

“(C) PERMANENT DISABILITY COMPENSATED BY A SCHEDULE.—For a claim for a permanent disability described in section 8107(a) by an employee that commenced before the date of

enactment of the Workers’ Compensation Reform Act of 2011, the employee shall receive augmented compensation under subsection (c).”.

(b) MAXIMUM AND MINIMUM MONTHLY PAYMENTS.—Section 8112 is amended—

(1) in subsection (a)—

(A) by inserting “subsections (b) and (c) and” before “section 8138”;

(B) by striking “including augmented compensation under section 8110 of this title but”; and

(C) by striking “75 percent” each place it appears and inserting “66 ⅔ percent”;

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following:

“(b) EXCEPTIONS.—

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

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

“(B) subsection (a) shall be applied by substituting ‘75 percent’ for ‘66 ⅔ percent’ each place it appears.

“(2) PARTIAL DISABILITY.—For a covered claim for partial disability by an employee, until the date that is 3 years after the date of enactment of the Workers’ Compensation Reform Act of 2011—

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

“(B) subsection (a) shall be applied by substituting ‘75 percent’ for ‘66 ⅔ percent’ each place it appears.”; and

(4) in subsection (c), as redesignated by paragraph (2), by striking “subsection (a)” and inserting “subsections (a) and (b)”.

(c) DEATH BENEFITS GENERALLY.—Section 8133 is amended—

(1) in subsections (a) and (e), by striking “75 percent” each place it appears and inserting “66 ⅔ percent (except as provided in subsection (g))”; and

(2) by adding at the end the following:

“(g) If the death occurred before the date of enactment of the Workers’ Compensation Reform Act of 2011, subsections (a) and (e) shall be applied by substituting ‘75 percent’ for ‘66 ⅔ percent’ each place it appears.”.

(d) DEATH BENEFITS FOR CIVIL AIR PATROL VOLUNTEERS.—Section 8141 is amended—

(1) in subsection (b)(2)(B) by striking “75 percent” and inserting “66 ⅔ percent (except as provided in subsection (c))”;

(2) by redesignating subsection (c) as subsection (d); and

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

“(c) If the death occurred before the date of enactment of the Workers’ Compensation Reform Act of 2011, subsection (b)(2)(B) shall be applied by substituting ‘75 percent’ for ‘66 ⅔ percent’.”.

## **SEC. 304. SCHEDULE COMPENSATION PAYMENTS.**

Section 8107 is amended—

(1) in subsection (a), by striking “at the rate of 66 2/3 percent of his monthly pay” and inserting “at the rate specified under subsection (d)”; and

(2) by adding at the end the following:

“(d) RATE FOR COMPENSATION.—

“(1) ANNUAL SALARY.—

“(A) IN GENERAL.—Except as provided in paragraph (2), the rate under subsection (a) shall be the rate of 66 ⅔ percent of the annual salary level established under subparagraph (B), in a lump sum equal to the

present value (as calculated under subparagraph (C)) of the amount of compensation payable under the schedule.

“(B) ESTABLISHMENT.—

“(i) IN GENERAL.—The Secretary of Labor shall establish an annual salary for purposes of subparagraph (A) in the amount the Secretary determines will result in the aggregate cost of payments made under this section being equal to what would have been the aggregate cost of payments under this section if the amendments made by section 304(a) of the Workers’ Compensation Reform Act of 2011 had not been enacted.

“(ii) COST OF LIVING ADJUSTMENT.—The annual salary established under clause (i) shall be increased on March 1 of each year by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.

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

“(2) CERTAIN INJURIES.—For an injury that occurred before the date of enactment of the Workers’ Compensation Reform Act of 2011, the rate under subsection (a) shall be 66 ⅔ percent of the employee’s monthly pay.

“(e) SIMULTANEOUS RECEIPT.—

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

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

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

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

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

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

**SEC. 305. VOCATIONAL REHABILITATION.**

(a) IN GENERAL.—Section 8104 is amended—

(1) in subsection (a)—

(A) by striking “(a) The Secretary of Labor may” and all that follows through “undergo vocational rehabilitation.” and inserting the following:

“(a) IN GENERAL.—

“(1) DIRECTION.—Except as provided in paragraph (2), not earlier than the date that is 6 months after the date on which an individual eligible for wage-loss compensation

under section 8105 or 8106 is injured, or by such other date as the Secretary of Labor determines it would be reasonable under the circumstances for the individual to begin vocational rehabilitation, and if vocational rehabilitation may enable the individual to become capable of more gainful employment, the Secretary of Labor shall direct the individual to participate in developing a comprehensive return to work plan and to undergo vocational rehabilitation at a location a reasonable distance from the residence of the individual.”;

(B) by striking “the Secretary of Health, Education, and Welfare in carrying out the purposes of chapter 4 of title 29” and inserting “the Secretary of Education in carrying out the purposes of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.)”;

(C) by striking “under section 32(b)(1) of title 29” and inserting “under section 5 of the Rehabilitation Act of 1973 (29 U.S.C. 704)”;

(D) by adding at the end the following:

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

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following:

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

“(1) shall—

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

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

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

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

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

(4) in subsection (c), as so redesignated—

(A) by inserting “COMPENSATION.—” before “Notwithstanding”; and

(B) by striking “, other than employment undertaken pursuant to such rehabilitation”; and

(5) by adding at the end the following:

“(d) ASSISTED REEMPLOYMENT AGREEMENTS.—

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

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

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

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

“(e) LIST.—To facilitate the hiring of individuals eligible for wage-loss compensation under section 8105 or 8106, the Secretary shall provide a list of such individuals to the Office of Personnel Management, which the Office of Personnel Management shall provide to all agencies and instrumentalities of the Federal Government.”.

(b) TERMINATION OF VOCATIONAL REHABILITATION REQUIREMENT AFTER RETIREMENT AGE.—Section 8113(b) is amended by adding at the end the following: “An individual who has attained retirement age may not be required to undergo vocational rehabilitation.”.

(c) MANDATORY BENEFIT REDUCTION FOR NONCOMPLIANCE.—Section 8113(b) is amended by striking “may reduce” and inserting “shall reduce”.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Subchapter III of chapter 15 of title 31, United States Code, is amended by adding at the end the following:

**“§ 1538. Authorization for assisted reemployment**

“Funds may be transferred from the Employees’ Compensation Fund established under section 8147 of title 5 to the applicable appropriations account for an agency or instrumentality of any branch of the Federal Government for the purposes of reimbursing the agency or instrumentality in accordance with an assisted reemployment agreement entered into under section 8104 of title 5.”.

(2) TABLE OF SECTIONS.—The table of sections for chapter 15 of title 31, United States Code, is amended by inserting after the item relating to section 1537 the following:

“1538. Authorization for assisted reemployment.”.

**SEC. 306. REPORTING REQUIREMENTS.**

(a) IN GENERAL.—Chapter 81 is amended by inserting after section 8106 the following:

**“§ 8106a. Reporting requirements**

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

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

“(2) has not attained retirement age.

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

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

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

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

“(2) FORFEITED COMPENSATION.—Compensation forfeited under this subsection, if already paid to the employee receiving compensation, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129, unless recovery is waived under that section.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 81 is amended by inserting after the item relating to section 8106 the following:

“8106a. Reporting requirements.”.

**SEC. 307. DISABILITY MANAGEMENT REVIEW; INDEPENDENT MEDICAL EXAMINATIONS.**

Section 8123 is amended by adding at the end the following:

“(e) DISABILITY MANAGEMENT REVIEW.—

“(1) DEFINITIONS.—In this subsection—

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

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

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

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

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

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

“(4) FREQUENCY.—

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

“(B) MINIMUM FREQUENCY.—

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

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

“(5) EMPLOYING AGENCY OR INSTRUMENTALITY REQUESTS.—

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

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

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

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

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

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

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

“(ii) an explanation of why the officer has determined, based on the materials in the file and other information known to the officer, that requiring a physical examination of the employee under this subsection is necessary; and

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

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

“(E) AFTER INITIAL EXAMINATION.—

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

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

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

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

**SEC. 308. WAITING PERIOD.**

(a) IN GENERAL.—Section 8117 is amended—

(1) in the section heading, by striking “**Time of accrual of right**” and inserting “**Waiting period**”; and

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “An employee” and all that follows through “is not entitled” and inserting “IN GENERAL.—An employee is not entitled to continuation of pay within the meaning of section 8118 for the first 3 days of temporary disability or, if section 8118 does not apply, is not entitled”; and

(B) in paragraph (1), by adding “or” at the end;

(C) by striking paragraph (2); and

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

(3) in subsection (b)—

(A) by striking “A Postal Service” the first place it appears and all that follows through “A Postal Service” the second place it appears and inserting “USE OF LEAVE.—An”;

(B) by striking “that 3-day period” and inserting “the first 3 days of temporary disability”; and

(C) by striking “or is followed by permanent disability”.

(b) CONTINUATION OF PAY.—Section 8118 is amended—

(1) in the section heading, by striking “**election to use annual or sick leave**”; and

(2) in subsection (b)(1), by striking “section 8117(b)” and inserting “section 8117”;

(3) by striking subsection (c); and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 81 is amended by striking the items relating to sections 8117 and 8118 and inserting the following:

“8117. Waiting period.

“8118. Continuation of pay.”.

**SEC. 309. ELECTION OF BENEFITS.**

(a) IN GENERAL.—Section 8116 is amended by adding at the end the following:

“(e) RETIREMENT BENEFITS.—

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

“(2) ELECTION.—

“(A) DEADLINE.—An individual shall make an election under paragraph (1) in accordance with such deadlines as the Secretary of Labor shall establish.

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

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

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

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

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Sections 8337(f)(3) and 8464a(a)(3) are each amended by striking “Paragraphs” and inserting “Except as provided under chapter 81, paragraphs”.

**SEC. 310. SANCTION FOR NONCOOPERATION WITH FIELD NURSES.**

Section 8123, as amended by section 307, is amended by adding at the end the following:

“(f) FIELD NURSES.—

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

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

**SEC. 311. SUBROGATION OF CONTINUATION OF PAY.**

(a) IN GENERAL.—Section 8131 is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting “continuation of pay or” before “compensation”; and

(2) in subsection (b), by inserting “continuation of pay” before “compensation”; and

(3) in subsection (c)—

(A) by inserting “continuation of pay or” before “compensation already paid”; and

(B) by inserting “continuation of pay or” before “compensation payable”.

(b) ADJUSTMENT AFTER RECOVERY FROM A THIRD PERSON.—Section 8132 is amended—

(1) in the first sentence—

(A) by inserting “continuation of pay or” before “compensation is payable”; and

(B) by inserting “continuation of pay or” before “compensation from the United States”;

(C) by striking “by him or in his behalf” and inserting “by the beneficiary or on behalf of the beneficiary”;

(D) by inserting “continuation of pay and” before “compensation paid by the United States”; and

(E) by striking “compensation payable to him” and inserting “continuation of pay or compensation payable to the beneficiary”;

(2) in the second sentence, by striking “his designee” and inserting “the designee of the beneficiary”; and

(3) in the fourth sentence, by striking “If compensation” and all that follows through “payable to him by the United States” and inserting “If continuation of pay or compensation has not been paid to the beneficiary, the money or property shall be credited against continuation of pay or compensation payable to the beneficiary by the United States”.

#### SEC. 312. SOCIAL SECURITY EARNINGS INFORMATION.

Section 8116, as amended by section 308, is amended by adding at the end the following:

“(f) **EARNINGS INFORMATION.**—Notwithstanding section 552a or any other provision of Federal or State law, the Social Security Administration shall make available to the Secretary of Labor, upon written request, the Social Security earnings information of a living or deceased employee who may have sustained an injury or died as a result of an injury that is the subject of a claim under this subchapter required by the Secretary of Labor to carry out this subchapter.”.

#### SEC. 313. AMOUNT OF COMPENSATION.

(a) **INJURIES TO FACE, HEAD, AND NECK.**—Section 8107(c)(21) is amended—

(1) by striking “not to exceed \$3,500” and inserting “in proportion to the severity of the disfigurement, not to exceed \$50,000,”; and

(2) by adding at the end the following: “The maximum amount of compensation under this paragraph shall be increased on March 1 of each year by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.”.

(b) **FUNERAL EXPENSES.**—Section 8134(a) is amended—

(1) by striking “\$800” and inserting “\$6,000”; and

(2) by adding at the end the following: “The maximum amount of compensation under this subsection shall be increased on March 1 of each year by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.”.

(c) **APPLICATION.**—The amendments made by this section shall apply to injuries or deaths, respectively, occurring on or after the date of enactment of this Act.

#### SEC. 314. TECHNICAL AND CONFORMING AMENDMENTS.

Chapter 81 is amended—

(1) in section 8101(1)(D), by inserting “for an injury that occurred before the effective date of section 204(e) of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198; 87 Stat. 783; 5 U.S.C. 8101 note)” before the semicolon;

(2) in section 8139, by inserting “under this subchapter” after “Compensation awarded”;

(3) in section 8148(a), by striking “section 8106” and inserting “section 8106a”;

#### SEC. 315. REGULATIONS.

(a) **IN GENERAL.**—As soon as possible after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations (which may include interim final regulations) to carry out this title.

(b) **CONTENTS.**—The regulations promulgated under subsection (a) shall include, for purposes of the amendments made by sections 302 and 303, clarification of—

(1) what is a claim; and

(2) what is the date on which a period of disability, for which a claim is made, commences.

#### TITLE IV—OTHER MATTERS

##### SEC. 401. PROFITABILITY PLAN.

(a) **PLAN REQUIRED.**—Not later than 90 days after the date of enactment of this Act, the Postal Service shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, the Comptroller General of the United States, and the Commission a plan describing, in detail, the actions the Postal Service will take to—

(1) become profitable by fiscal year 2015; and

(2) achieve long-term financial solvency.

(b) **CONSIDERATIONS.**—The plan required under subsection (a) shall take into consideration—

(1) the legal authority of the Postal Service;

(2) the changes in the legal authority and responsibilities of the Postal Service under this Act;

(3) any cost savings that the Postal Service anticipates will be achieved through negotiations with employees of the Postal Service; and

(4) projected changes in mail volume.

(c) **UPDATES.**—The Postal Service shall update the plan required under subsection (a) not less frequently than quarterly, until the last quarter of fiscal year 2015.

##### SEC. 402. POSTAL RATES.

(a) **COMMISSION STUDY.**—

(1) **IN GENERAL.**—Not earlier than 2 years after the date of enactment of this Act, the Commission shall commence a study to determine—

(A) whether and to what extent any market-dominant classes, products, or types of mail services do not bear the direct and indirect costs attributable to those classes, products, or types of mail service; and

(B) the impact of any excess mail processing, transportation, or delivery capacity of the Postal Service on the direct and indirect costs attributable to any class that bears less than 100 percent of the costs attributable to the class, as determined under subparagraph (A).

(2) **REQUIREMENTS.**—The Commission shall conduct the study under paragraph (1) in a manner that protects confidential and proprietary business information.

(3) **HEARING.**—Before completing the study under paragraph (1), the Commission shall hold a public hearing, on the record, in order to better inform the conclusions of the study. The Postal Service, postal customers, and other interested persons may participate in the hearing under this paragraph.

(4) **COMPLETION.**—Not later than 6 months after the date on which the Commission commences the study under subsection (a), the Commission shall complete the study.

(b) **ANNUAL UPDATES REQUIRED.**—Not later than 1 year after the date of completion of the study under subsection (a), and annually thereafter, the Commission shall—

(1) determine whether any class of mail bears less than 100 percent of the direct and indirect costs attributable to the class, product, or type of mail service, in the same manner as under subsection (a)(1)(A);

(2) for any class of mail for which the Commission makes a determination under paragraph (1), update the study under subsection (a); and

(3) include the study updated under paragraph (2) in the annual written determina-

tion of the Commission under section 3653 of title 39, United States Code.

(c) **POSTAL RATES.**—

(1) **DEFINITION.**—In this subsection, the term “loss-making”, as used with respect to a class of mail, means a class of mail that bears less than 100 percent of the costs attributable to the class of mail, according to the most recent annual determination of the Commission under subsection (a)(1) or (b)(1), adjusted to account for the quantitative effect of excess mail processing, transportation, or delivery capacity of the Postal Service on the costs attributable to the class of mail.

(2) **IN GENERAL.**—Not later than 1 year after the date on which the study under subsection (a) is completed, and annually thereafter, the Postal Service shall establish postal rates for each loss-making class of mail.

(3) **CONSIDERATIONS.**—The Postal Service may establish postal rates under paragraph (2) in a manner that ensures, to the extent practicable, that a class of mail described in paragraph (2) is not loss-making by—

(A) using the authority to increase rates under section 3622(d)(1)(A) of title 39, United States Code;

(B) exhausting any unused rate adjustment authority, as defined in section 3622(d)(2)(C) of title 39, United States Code, subject to paragraph (4); and

(C) maximizing incentives to reduce costs and increase efficiency with regard to the processing, transportation, and delivery of such mail by the Postal Service.

(4) **UNUSED RATE ADJUSTMENT AUTHORITY.**—Section 3622(d)(2)(C) of title 39, United States Code, shall be applied by annually increasing by 2 percentage points any unused rate adjustment authority for a class of mail that bears less than 90 percent of the costs attributable to the class of mail, according to the most recent annual determination of the Commission under subsection (a)(1) or (b)(1), adjusted to account for the quantitative effect of excess mail processing, transportation, or delivery capacity of the Postal Service on the costs attributable to the class of mail.

##### SEC. 403. COOPERATION WITH STATE AND LOCAL GOVERNMENTS; INTRA-SERVICE AGREEMENTS.

(a) **COOPERATION WITH STATE AND LOCAL GOVERNMENTS.**—Section 411 of title 39, United States Code, is amended, in the first sentence by striking “and the Government Printing Office” inserting “, the Government Printing Office, and agencies and other units of State and local governments”.

(b) **INTRA-SERVICE AGREEMENTS.**—Section 411 of title 39, United States Code, as amended by subsection (a), is amended—

(1) in the section heading, by adding at the end the following: “and within the Postal Service”;

(2) in the second sentence, by striking “section” and inserting “subsection”;

(3) by striking “Executive agencies” and inserting the following:

“(a) **COOPERATION WITH STATE AND LOCAL GOVERNMENTS.**—Executive agencies”; and

(4) by adding at the end the following:

“(b) **COOPERATION WITHIN THE POSTAL SERVICE.**—The Office of the Inspector General and other components of the Postal Service may enter into agreements to furnish to each other property, both real and personal, and personal and nonpersonal services. The furnishing of property and services under this subsection shall be under such terms and conditions, including reimbursability, as the Inspector General and the head of the component concerned shall deem appropriate.”.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 4 of title 39, United States Code, is amended by

striking the item relating to section 411 and inserting the following:

“411. Cooperation with other Government agencies and within the Postal Service.”.

#### SEC. 404. SHIPPING OF WINE AND BEER.

(a) MAILABILITY.—

(1) NONMAILABLE ARTICLES.—Section 1716(f) of title 18, United States Code, is amended by striking “mails” and inserting “mails, except to the extent that the mailing is allowable under section 3001(p) of title 39”.

(2) APPLICATION OF LAWS.—Section 1161 of title 18, United States Code, is amended, by inserting “, and, with respect to the mailing of wine or malt beverages (as those terms are defined in section 117 of the Federal Alcohol Administration Act (27 U.S.C. 211)), is in conformity with section 3001(p) of title 39” after “Register”.

(b) REGULATIONS.—Section 3001 of title 39, United States Code, is amended by adding at the end the following:

“(p)(1) In this subsection, the terms ‘wine’ and ‘malt beverage’ have the same meanings as in section 117 of the Federal Alcohol Administration Act (27 U.S.C. 211).

“(2) Wine or malt beverages shall be considered mailable if mailed—

“(A) by a licensed winery or brewery, in accordance with applicable regulations under paragraph (3); and

“(B) in accordance with the law of the State, territory, or district of the United States where the addressee or duly authorized agent takes delivery.

“(3) The Postal Service shall prescribe such regulations as may be necessary to carry out this subsection, including regulations providing that—

“(A) the mailing shall be by a means established by the Postal Service to ensure direct delivery to the addressee or a duly authorized agent;

“(B) the addressee (and any duly authorized agent) shall be an individual at least 21 years of age;

“(C) the individual who takes delivery, whether the addressee or a duly authorized agent, shall present a valid, government-issued photo identification at the time of delivery;

“(D) the wine or malt beverages may not be for resale or other commercial purpose; and

“(E) the winery or brewery involved shall—

“(i) certify in writing to the satisfaction of the Postal Service, through a registration process administered by the Postal Service, that the mailing is not in violation of any provision of this subsection or regulation prescribed under this subsection; and

“(ii) provide any other information or affirmation that the Postal Service may require, including with respect to the prepayment of State alcohol beverage taxes.

“(4) For purposes of this subsection—

“(A) a winery shall be considered to be licensed if it holds an appropriate basic permit issued—

“(i) under the Federal Alcohol Administration Act; and

“(ii) under the law of the State in which the winery is located; and

“(B) a brewery shall be considered to be licensed if—

“(i) it possesses a notice of registration and bond approved by the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury; and

“(ii) it is licensed to manufacture and sell malt beverages in the State in which the brewery is located.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) the date on which the Postal Service issues regulations under section 3001(p) of

title 39, United States Code, as amended by this section; and

(2) 120 days after the date of enactment of this Act.

#### SEC. 405. ANNUAL REPORT ON UNITED STATES MAILING INDUSTRY.

(a) IN GENERAL.—Chapter 24 of title 39, United States Code, is amended by adding at the end the following:

##### “§ 2403. Annual report on the fiscal stability of the United States mailing industry

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Postal Regulatory Commission shall submit a report on the fiscal stability of the United States mailing industry with respect to the preceding fiscal year to—

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

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

“(b) ASSISTANCE.—The United States Postal Service and any Federal agency involved in oversight or data collection regarding industry sectors relevant to the report under subsection (a) shall provide any assistance to the Postal Regulatory Commission that the Postal Regulatory Commission determines is necessary in the preparation of a report under subsection (a).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 24 of title 39, United States Code, is amended by adding at the end the following:

“2403. Annual report on the fiscal stability of the United States mailing industry.”.

#### SEC. 406. USE OF NEGOTIATED SERVICE AGREEMENTS.

Section 3622 of title 39, United States Code, is amended—

(1) in subsection (c)(10)(A)—

(A) in the matter preceding clause (i), by striking “either” and inserting “will”; and

(B) in clause (i), by striking “or” at the end;

(C) in clause (ii), by striking “and” at the end and inserting “or”; and

(D) by adding at the end the following:

“(iii) preserve mail volume and revenue; and”;

(2) by adding at the end the following:

“(g) COORDINATION.—The Postal Service and the Postal Regulatory Commission shall coordinate actions to identify methods to increase the use of negotiated service agreements for market-dominant products by the Postal Service consistent with subsection (c)(10).”.

#### SEC. 407. CONTRACT DISPUTES.

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

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

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

#### SEC. 408. CONTRACTING PROVISIONS.

(a) IN GENERAL.—Part I of title 39, United States Code, is amended by adding at the end the following:

##### “CHAPTER 7—CONTRACTING PROVISIONS

“Sec.

“701. Definitions.

“702. Advocate for competition.

“703. Delegation of contracting authority.

“704. Posting of noncompetitive purchase requests for noncompetitive contracts.

“705. Review of ethical issues.

“706. Ethical restrictions on participation in certain contracting activity.

#### “§ 701. Definitions

“In this chapter—

“(1) the term ‘contracting officer’ means an employee of a covered postal entity who has authority to enter into a postal contract; and

“(2) the term ‘covered postal entity’ means—

“(A) the United States Postal Service; or

“(B) the Postal Regulatory Commission; and

“(3) the term ‘head of a covered postal entity’ means—

“(A) in the case of the United States Postal Service, the Postmaster General; or

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

“(4) the term ‘postal contract’ means any contract (including any agreement or memorandum of understanding) entered into by a covered postal entity for the procurement of goods or services; and

“(5) the term ‘senior procurement executive’ means the senior procurement executive of a covered postal entity.

#### “§ 702. Advocate for competition

“(a) ESTABLISHMENT AND DESIGNATION.—

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

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

“(b) RESPONSIBILITIES.—The advocate for competition of each covered postal entity shall—

“(1) be responsible for promoting competition to the maximum extent practicable consistent with obtaining best value by promoting the acquisition of commercial items and challenging barriers to competition; and

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

“(3) prepare and transmit to the head of each covered postal entity, the senior procurement executive of each covered postal entity, the Board of Governors of the United States Postal Service, and Congress, an annual report describing—

“(A) the activities of the advocate under this section;

“(B) initiatives required to promote competition;

“(C) barriers to competition that remain; and

“(D) the number of waivers made by each covered postal entity under section 704(c).

#### “§ 703. Delegation of contracting authority

“(a) IN GENERAL.—

“(1) POLICY.—Not later than 60 days after the date of enactment of the 21st Century Postal Service Act of 2011, the head of each covered postal entity shall issue a policy on contracting officer delegations of authority for the covered postal entity.

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

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

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

“(b) POSTING OF DELEGATIONS.—

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



“(2) EFFECTIVE DATE.—This paragraph shall apply to any delegation of authority made on or after 30 days after the date of enactment of the 21st Century Postal Service Act of 2011.

**“§ 704. Posting of noncompetitive purchase requests for noncompetitive contracts**

“(a) POSTING REQUIRED.—

“(1) POSTAL REGULATORY COMMISSION.—The Postal Regulatory Commission shall make the noncompetitive purchase request for any noncompetitive award, including the rationale supporting the noncompetitive award, publicly available on the website of the Postal Regulatory Commission—

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

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

“(2) UNITED STATES POSTAL SERVICE.—The United States Postal Service shall make the noncompetitive purchase request for any noncompetitive award of a postal contract valued at \$250,000 or more, including the rationale supporting the noncompetitive award, publicly available on the website of the United States Postal Service—

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

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

“(3) ADJUSTMENTS TO THE POSTING THRESHOLD FOR THE UNITED STATES POSTAL SERVICE.—

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

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

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

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

“(4) EFFECTIVE DATE.—This subsection shall apply to any noncompetitive contract awarded on or after the date that is 90 days after the date of enactment of the 21st Century Postal Service Act of 2011.

“(b) PUBLIC AVAILABILITY.—

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

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

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

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

“(c) WAIVERS.—

“(1) WAIVER PERMITTED.—If a covered postal entity determines that making a noncompetitive purchase request publicly available would risk placing the United States Postal Service at a competitive disadvantage

relative to a private sector competitor, the senior procurement executive, in consultation with the advocate for competition of the covered postal entity, may waive the requirements under subsection (a).

“(2) FORM AND CONTENT OF WAIVER.—

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

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

“(i) a description of the risk associated with making the noncompetitive purchase request publicly available; and

“(ii) a statement that redaction of sensitive information in the noncompetitive purchase request would not be sufficient to protect the United States Postal Service from being placed at a competitive disadvantage relative to a private sector competitor.

“(3) DELEGATION OF WAIVER AUTHORITY.—A covered postal entity may not delegate the authority to approve a waiver under paragraph (1) to any employee having less authority than the senior procurement executive.

**“§ 705. Review of ethical issues**

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

“(1) review the proposed contract; and

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

**“§ 706. Ethical restrictions on participation in certain contracting activity**

“(a) DEFINITIONS.—In this section—

“(1) the term ‘covered employee’ means—

“(A) a contracting officer; or

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

“(2) the term ‘covered relationship’ means a covered relationship described in section 2635.502(b)(1) of title 5, Code of Federal Regulations, or any successor thereto; and

“(3) the term ‘final conviction’ means a conviction, whether entered on a verdict or plea, including a plea of nolo contendere, for which a sentence has been imposed.

“(b) IN GENERAL.—

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

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

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

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

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

‘Standards of Ethical Conduct for Employees of the Executive Branch’);

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

“(D) under subsections (d) and (e) of section 2635.50 of title 5, Code of Federal Regulations, or any successor thereto, require the ethics counsel for a covered postal entity to—

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

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

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

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

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

“(c) CONTRACT VOIDANCE AND RECOVERY.—

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

“(A) void that contract; and

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

“(2) OBTAINING OR DISCLOSING PROCUREMENT INFORMATION.—

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

“(i) void that contract; and

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

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

“(i) there is a final conviction for an offense punishable under section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)); or

“(ii) the head of a covered postal entity determines, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting an offense punishable under section 27(e) of that Act.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 39, United States Code, is amended by adding at the end the following:

“7. Contracting Provisions ..... 701”.

## SUBMITTED RESOLUTIONS

## SENATE RESOLUTION 309—SUPPORTING THE PRESERVATION OF INTERNET ENTREPRENEURS AND SMALL BUSINESSES

Mr. WYDEN (for himself, Ms. AYOTTE, Mrs. SHAHEEN, Mr. BEGICH, Mr. MERKLEY, and Mr. HELLER) submitted the following resolution; which was referred to the Committee on Finance.

S. RES. 309

Whereas the United States enjoys a strong Internet retail market, which, for the past decade, has provided consumers in the United States with the opportunity to purchase quality products and services at competitive prices;

Whereas the free Internet marketplace has enabled a large number of small retailers and entrepreneurs across the Nation to establish and strengthen businesses on various e-commerce platforms and therefore protect and create jobs, increase consumer choice, create competition in the retail industry, and provide quality goods and services at reasonable and often discounted prices;

Whereas any Federal legislation that would upset the free and fair Internet marketplace and allow State governments to impose new, onerous and burdensome sales tax-collecting schemes on out-of-State, Internet-enabled small businesses would adversely impact hundreds of thousands of jobs, reduce consumer choice, and impede the growth and development of interstate commerce; and

Whereas at a time when national unemployment numbers are high and businesses across the country are struggling to keep their doors open, the Federal Government should promote pro-growth and pro-business policies instead of enacting legislation that extracts additional taxes from our Nation's Internet-enabled businesses: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that Congress should not enact any legislation that would grant State governments the authority to impose any new burdensome or unfair tax collecting requirements on small Internet businesses and entrepreneurs, which would ultimately hurt the economy of, and consumers in, the United States.

Mr. WYDEN. Mr. President, I am pleased today to be joined by Senators AYOTTE, BEGICH, HELLER, MERKLEY, and SHAHEEN to submit a simple but important bipartisan resolution. Our resolution simply expresses a sense of the Senate that the government should not sack small online businesses with any new tax collecting mandates that would hurt their competitiveness, hurt economic recovery, hurt competition, and harm consumers.

The Internet is transforming the way that commerce is conducted. It is leveling the playing field so that the marketplace—whether for goods and services or for ideas—is less and less dominated by the big and by the powerful. The Internet is democratizing information, speech, and making it easier to exchange ideas as well as goods and services.

The legal regime that the United States currently has in place, which facilitates e-commerce, must be protected. Our Constitution and laws such as the Internet Tax Freedom Act and section 230 of the Communications De-

gency Act, which I championed and protect e-commerce platforms from litigation and small e-commerce businesses from being crushed by layers and layers of state and local taxes, are the pillars that support America's e-commerce platforms and online entrepreneurs' ability to compete.

Everyone in this body recognizes that small businesses are the engines of our economy. They are responsible for the bulk of innovation and job creation in this country—job creation that is so desperately needed right now. In this difficult economic period, however, many State and local governments are facing budgetary shortfalls. It is a difficult challenge that I am sure all of my colleagues recognize, but State budget gaps should not be filled by imposing new tax collecting mandates on the very types of businesses that we rely on to innovate and create the new jobs of tomorrow. But that is what some people are suggesting that Congress allow. I am opposed to that right now, especially given the economic challenges that we face.

Let me give just one example of why we shouldn't upset the legal regime that is currently working to foster innovation, encourage e-commerce and interstate economic activity and which supports jobs. Without the regime that we have in place, a small online retailer, whether it is someone that is selling new merchandise or used merchandise, would be responsible for collecting sales tax for up to 15,000 different sales tax jurisdictions. That is just not a reasonable thing to expect. That is not a reasonable thing to expect particularly, say, from a stay-at-home parent who sells household goods online to supplement the family's income. Or a college student who buys and sells used merchandise online to help finance the increasingly higher costs of attending college. We don't want to saddle online entrepreneurs like these with new tax collecting responsibilities that will, in effect, put them right out of business.

I look forward to working with my Senate colleagues to build support for this resolution and to ensure that we keep the policies in place that enable small businesses, including online businesses, to have a policy environment that allows them to innovate and create good American jobs.

## NOTICE OF INTENT TO OBJECT TO PROCEEDING

I, Senator CHARLES GRASSLEY, intend to object to proceeding to S. 1014, a bill to provide for additional Federal district judgeships, dated November 2, 2011.

## NOTICE OF HEARING

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public

that a field hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Monday, November 14, 2011, at 10 a.m., in 7th Floor Courtroom of the Robert C. Byrd Federal Courthouse, 300 Virginia Street, East Charleston, WV 25301.

The purpose of the hearing is to examine Marcellus Shale Gas development and production in West Virginia.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150, or by e-mail to Abigail\_Campbell@energy.senate.gov.

For further information, please contact Allyson Anderson at (202) 224-7143 or Abigail Campbell at (202) 224-1219.

## AUTHORITY FOR COMMITTEES TO MEET

## COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on November 2, 2011, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 2, 2011, at 9:30 a.m. to conduct a hearing entitled "Ten Years After 9/11: The Next Wave in Aviation Security."

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON THE JUDICIARY

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 2, 2011, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Nominations."

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 2, 2011, at 9:30 a.m., to hold a European Affairs subcommittee hearing entitled, "The European Debt Crisis: Strategic Implications for the Transatlantic Alliance."

The PRESIDING OFFICER. Without objection, it is so ordered.