

112TH CONGRESS
1ST SESSION

S. 353

To provide for improvements to the United States Postal Service, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2011

Ms. COLLINS introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for improvements to the United States Postal Service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “U.S. Postal Service
5 Improvements Act of 2011”.

1 **TITLE I—POSTAL SERVICE**
2 **IMPROVEMENTS**

3 **SEC. 101. TRANSFER OF AMOUNTS FROM THE CIVIL SERV-**
4 **ICE RETIREMENT AND DISABILITY FUND.**

5 (a) OFFICE OF PERSONNEL MANAGEMENT DETER-
6 MINATION.—Not later than 30 days after the date of en-
7 actment of this Act and in accordance with section
8 802(c)(2) of the Postal Accountability and Enhancement
9 Act (5 U.S.C. 8348 note; Public Law 109–435; 120 Stat.
10 3250), the Office of Personnel Management shall make
11 a determination or redetermination under section 8348(h)
12 of title 5, United States Code, consistent with the report
13 submitted by the Postal Regulatory Commission to the
14 Postal Service and Congress on June 29, 2010.

15 (b) AVAILABILITY FOR TRANSFERS.—Section
16 8348(h)(2) of title 5, United States Code, is amended by
17 striking subparagraphs (B) and (C) and inserting the fol-
18 lowing:

19 “(B) The Office shall redetermine the Postal surplus
20 or supplemental liability as of the close of the fiscal year
21 ending September 30, 2010, and for each year thereafter,
22 through the fiscal year ending September 30, 2043. If the
23 result for a fiscal year is a surplus, that amount shall re-
24 main in the Fund until distribution is authorized under
25 subparagraph (C). Beginning June 15, 2017, if the result

1 is a supplemental liability, the Office shall establish an
2 amortization schedule, including a series of annual install-
3 ments commencing on September 30 of the subsequent fis-
4 cal year, which provides for the liquidation of such liability
5 by September 30, 2043.

6 “(C)(i) As of the close of the fiscal years ending Sep-
7 tember 30, 2010, 2011, 2012, 2013, 2014, 2015, and
8 2016, if the result is a surplus, that amount, or any part
9 of that amount, may be transferred to the Postal Service
10 Retiree Health Benefits Fund.

11 “(ii) As of the close of the fiscal year ending Sep-
12 tember 30, 2017, and each year thereafter, if the result
13 is a surplus, that amount, or any part of that amount,
14 may be transferred to—

15 “(I) the Postal Service Retiree Health Benefits
16 Fund to pay any liability to the Postal Service Re-
17 tiree Health Benefits Fund; or

18 “(II) if all liability to the Postal Service Retiree
19 Health Benefits Fund is paid—

20 “(aa) the Employees’ Compensation Fund
21 established under section 8147; or

22 “(bb) the United States Postal Service for
23 the repayment of any obligation issued under
24 section 2005 of title 39.

25 “(iii) Any transfer under clause (i) shall be—

1 “(I) made at the discretion of the Board of
2 Governors of the Postal Service in the amount deter-
3 mined by the Board of Governors, except the
4 amount may not exceed the amount under section
5 8909a(d)(3)(A) remaining to be paid for the applica-
6 ble fiscal year; and

7 “(II) credited to the Postal Service for payment
8 of the amount required under section
9 8909a(d)(3)(A) for the applicable fiscal year.

10 “(iv) Any transfer under clause (ii) shall be—

11 “(I) made at the discretion of the Board of
12 Governors of the Postal Service in the amount deter-
13 mined by the Board of Governors;

14 “(II) if transferred to the Postal Service Re-
15 tiree Health Benefits Fund, credited to the Postal
16 Service for payment of any liability of the Postal
17 Service to the Postal Service Retiree Health Benefits
18 Fund for the applicable fiscal year; and

19 “(III) if transferred to the Employees’ Com-
20 pensation Fund established under section 8147,
21 credited to the Postal Service for payment of any li-
22 ability of the Postal Service under chapter 81 for the
23 applicable fiscal year.

24 “(v) The Board of Governors shall—

1 “(I) provide written notice to the Office of any
2 amount to be transferred under this clause; and

3 “(II) take all actions of the Board under this
4 clause by a majority vote.

5 “(vi) The Office shall transfer any amount deter-
6 mined by the Board of Governors to the credit of the Post-
7 al Service in accordance with this clause.”.

8 (c) POSTAL SERVICE SURPLUS OR LIABILITY BASED
9 ON FEDERAL EMPLOYEES RETIREMENT SYSTEM CON-
10 TRIBUTIONS.—Section 8348 of title 5, United States
11 Code, is amended by adding at the end the following:

12 “(m)(1) In this subsection, the term ‘Postal surplus
13 or supplemental liability’ means the estimated difference,
14 as determined by the Office, between—

15 “(A) the actuarial present value of all future
16 benefits payable from the Fund under chapter 84 to
17 current or former employees of the United States
18 Postal Service and attributable to civilian employ-
19 ment with the United States Postal Service; and

20 “(B) the sum of—

21 “(i) the actuarial present value of deduc-
22 tions to be withheld from the future basic pay
23 of employees of the United States Postal Serv-
24 ice currently subject to chapter 84 under sec-
25 tion 8422;

1 “(ii) that portion of the Fund balance, as
2 of the date the Postal surplus or supplemental
3 liability is determined, attributable to payments
4 to the Fund by the United States Postal Serv-
5 ice and its employees, minus benefit payments
6 attributable to civilian employment with the
7 United States Postal Service, plus the earnings
8 on such amounts while in the Fund; and

9 “(iii) any other appropriate amount, as de-
10 termined by the Office in accordance with gen-
11 erally accepted actuarial practices and prin-
12 ciples.

13 “(2)(A) The Office shall determine the Postal surplus
14 or supplemental liability as of the close of the fiscal year
15 ending September 30, 2010, and for each year thereafter,
16 through the fiscal year ending September 30, 2043. If the
17 result for a fiscal year is a surplus, that amount shall re-
18 main in the Fund until distribution is authorized under
19 subparagraph (B). Beginning June 15, 2017, if the result
20 is a supplemental liability, the Office shall establish an
21 amortization schedule, including a series of annual install-
22 ments commencing on September 30 of the subsequent fis-
23 cal year, which provides for the liquidation of such liability
24 by September 30, 2043.

1 “(B)(i) As of the close of the fiscal years ending Sep-
2 tember 30, 2010, 2011, 2012, 2013, 2014, 2015, and
3 2016, if the result is a surplus, that amount, or any part
4 of that amount, may be transferred to the Postal Service
5 Retiree Health Benefits Fund.

6 “(ii) As of the close of the fiscal year ending Sep-
7 tember 30, 2017, and each year thereafter, if the result
8 is a surplus, that amount, or any part of that amount,
9 may be transferred to—

10 “(I) the Postal Service Retiree Health Benefits
11 Fund to pay any liability to the Postal Service Re-
12 tiree Health Benefits Fund; or

13 “(II) if all liability to the Postal Service Retiree
14 Health Benefits Fund is paid—

15 “(aa) the Employees’ Compensation Fund
16 established under section 8147; or

17 “(bb) the United States Postal Service for
18 the repayment of any obligation issued under
19 section 2005 of title 39.

20 “(iii) Any transfer under clause (i) shall be—

21 “(I) made at the discretion of the Board of
22 Governors of the Postal Service in the amount deter-
23 mined by the Board of Governors, except the
24 amount may not exceed the amount under section

1 8909a(d)(3)(A) remaining to be paid for the applica-
2 ble fiscal year; and

3 “(II) credited to the Postal Service for payment
4 of the amount required under section
5 8909a(d)(3)(A) for the applicable fiscal year.

6 “(iv) Any transfer under clause (ii) shall be—

7 “(I) made at the discretion of the Board of
8 Governors of the Postal Service in the amount deter-
9 mined by the Board of Governors;

10 “(II) if transferred to the Postal Service Re-
11 tiree Health Benefits Fund, credited to the Postal
12 Service for payment of any liability of the Postal
13 Service to the Postal Service Retiree Health Benefits
14 Fund for the applicable fiscal year; and

15 “(III) if transferred to the Employees’ Com-
16 pensation Fund established under section 8147,
17 credited to the Postal Service for payment of any li-
18 ability of the Postal Service under chapter 81 for the
19 applicable fiscal year.

20 “(v) The Board of Governors shall—

21 “(I) provide written notice to the Office of any
22 amount to be transferred under this clause; and

23 “(II) take all actions of the Board under this
24 clause by a majority vote.

1 “(vi) The Office shall transfer any amount deter-
2 mined by the Board of Governors to the credit of the Post-
3 al Service in accordance with this clause.

4 “(C) Amortization schedules established under this
5 paragraph shall be set in accordance with generally accept-
6 ed actuarial practices and principles, with interest com-
7 puted at the rate used in the most recent valuation of the
8 Civil Service Retirement System.

9 “(D) The United States Postal Service shall pay the
10 amounts so determined to the Office, with payments due
11 not later than the date scheduled by the Office.

12 “(3) Notwithstanding any other provision of law, in
13 computing the amount of any payment under any other
14 subsection of this section that is based upon the amount
15 of the unfunded liability, such payment shall be computed
16 disregarding that portion of the unfunded liability that the
17 Office determines will be liquidated by payments under
18 this subsection.

19 “(4)(A) The United States Postal Service may—

20 “(i) request the Postal Regulatory Commission
21 to procure the services of an actuary to review any
22 determination by the Office under this subsection; or

23 “(ii) if the Postal Regulatory Commission does
24 not object, procure the services of an actuary to re-

1 view any determination by the Office under this sub-
2 section.

3 “(B) A review under subparagraph (A) shall be con-
4 ducted—

5 “(i) by an actuary who holds membership in the
6 American Academy of Actuaries and who is qualified
7 in the evaluation of pension obligations; and

8 “(ii) in accordance with generally accepted ac-
9 tuarial practices and principles.

10 “(C)(i) An actuary that conducts a review under sub-
11 paragraph (A) shall submit a report on the review to the
12 entity that procured the services of the actuary.

13 “(ii) Upon receipt of a report under clause (i), the
14 Postal Regulatory Commission or the United States Post-
15 al Service, as appropriate, shall—

16 “(I) determine whether to approve the report;
17 and

18 “(II) if the report is approved, submit the re-
19 port to the Office and to Congress, together with
20 any comments of the Postal Regulatory Commission
21 or United States Postal Service.

22 “(D) Notwithstanding any other provision of this
23 subsection, upon submission of a report by the Postal Reg-
24 ulatory Commission or United States Postal Service under
25 subparagraph (C)(ii)(II), the Office shall reconsider its de-

1 termination or redetermination in light of such report, and
2 shall make any appropriate adjustments. The Office shall
3 submit a report containing the results of its reconsider-
4 ation to the Postal Regulatory Commission, the United
5 States Postal Service, and Congress.”.

6 **SEC. 102. CONSIDERATION OF POSTAL SERVICE FINANCIAL**
7 **CONDITION.**

8 Section 1207(c)(2) of title 39, United States Code,
9 is amended by inserting “The arbitration board shall con-
10 sider the financial condition of the Postal Service in ren-
11 dering its decision.” after the first sentence.

12 **SEC. 103. INCREASE IN THE USE OF NEGOTIATED SERVICE**
13 **AGREEMENTS.**

14 Section 3622 of title 39, United States Code, is
15 amended by adding at the end the following:

16 “(g) The Postal Service and the Postal Regulatory
17 Commission shall coordinate actions to identify ways to
18 increase the use of negotiated service agreements for mar-
19 ket dominant products by the Postal Service consistent
20 with subsection (c)(10).”.

21 **SEC. 104. AREA AND DISTRICT FIELD OFFICES.**

22 (a) IN GENERAL.—Not later than 90 days after the
23 date of enactment of this Act, the Postmaster General
24 shall submit a comprehensive strategic plan for guiding
25 area and district field office structure decisions to—

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

3 (2) the Committee on Oversight and Govern-
4 ment Reform of the House of Representatives.

5 (b) CONTENTS.—The plan under subsection (a)
6 shall—

7 (1) be developed in consultation with the Postal
8 Regulatory Commission; and

9 (2) include—

10 (A) an assessment of the effectiveness of
11 the plan with respect to increasing efficiency,
12 eliminating duplication, and reducing unneces-
13 sary costs;

14 (B) a review of the field office structure of
15 the United States Postal Service and describe
16 the actions to be taken by the United States
17 Postal Service to modify the structure based on
18 the review; and

19 (C) an examination of environmental fac-
20 tors, mail volumes, technological advancements,
21 operational considerations, and other issues im-
22 pacting the strategic goals of the United States
23 Postal Service under the plan.

24 (c) REPORT ON PROGRESS.—Not later than January
25 1, 2012, the Postmaster General shall submit a report on

1 the progress of implementing the comprehensive strategic
2 plan under this section to—

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

5 (2) the Committee on Oversight and Govern-
6 ment Reform of the House of Representatives.

7 (d) UPDATED PLANS.—Not later than January 1,
8 2015, and each 5 years thereafter, the United States Post-
9 al Service, in consultation with the Postal Regulatory
10 Commission, shall submit an updated comprehensive stra-
11 tegic plan under this section to—

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

14 (2) the Committee on Oversight and Govern-
15 ment Reform of the House of Representatives.

16 **SEC. 105. CO-LOCATION OF POST OFFICES AT RETAIL FA-**
17 **CILITIES.**

18 (a) IN GENERAL.—Not later than 90 days after the
19 date of enactment of this Act, the Postmaster General
20 shall submit a plan on the co-location of post offices at
21 retail facilities to—

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

24 (2) the Committee on Oversight and Govern-
25 ment Reform of the House of Representatives.

1 (b) CONTENTS.—The plan under subsection (a)
2 shall—

3 (1) be developed in consultation with the Postal
4 Regulatory Commission;

5 (2) provide for an increase in the co-location of
6 post offices at retail facilities, which could supple-
7 ment, rather than supplant, the services of inde-
8 pendent post offices, and enable the United States
9 Postal Service to offer its products and services at
10 those locations;

11 (3) consider the impact of any co-location deci-
12 sions on small communities and rural areas before
13 taking actions to co-locate post offices; and

14 (4) ensure that—

15 (A) service shall continue in small commu-
16 nities and rural areas after implementation of
17 the plan;

18 (B) the United States Postal Service solici-
19 its community input before making decisions
20 about co-location; and

21 (C) the quality of products and services of-
22 fered in co-located facilities are consistent with
23 those offered in post offices.

24 (c) REPORT ON PROGRESS.—Not later than January
25 1, 2012, the Postmaster General shall submit a report on

1 the progress of implementing the plan on the co-location
2 of post offices at retail facilities under this section to—

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

5 (2) the Committee on Oversight and Govern-
6 ment Reform of the House of Representatives.

7 **SEC. 106. ANNUAL REPORT ON UNITED STATES MAILING IN-**
8 **DUSTRY.**

9 (a) IN GENERAL.—Not later than November 1 of the
10 year following the date of enactment of this Act, and each
11 year thereafter, the Postal Regulatory Commission shall
12 submit a report on the fiscal stability of the United States
13 mailing industry with respect to the preceding fiscal year
14 to—

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

17 (2) the Committee on Oversight and Govern-
18 ment Reform of the House of Representatives.

19 (b) ASSISTANCE.—The United States Postal Service
20 and any Federal agency involved in oversight or data col-
21 lection regarding relevant industry sectors shall provide
22 any assistance to the Postal Regulatory Commission that
23 the Postal Regulatory Commission determines is necessary
24 in the preparation of any report under this section.

1 **SEC. 107. NOTICE AND COMMENT FOR SIGNIFICANT**
2 **CHANGES TO MAILING SPECIFICATIONS.**

3 (a) **RULEMAKING REQUIRED.**—Not later than 180
4 days after the date of enactment of this Act, the United
5 States Postal Service shall, after notice and the oppor-
6 tunity for comment, issue rules requiring that, before
7 making a change to mailing specifications that could pose
8 a significant burden to the customers of the United States
9 Postal Service and that is not reviewed by the Postal Reg-
10 ulatory Commission, the United States Postal Service
11 shall—

12 (1) publish the proposed change in the Federal
13 Register not later than 30 days before the effective
14 date of the proposed change;

15 (2) solicit, and respond in writing to, comments
16 on the proposed change; and

17 (3) analyze the financial impact that the pro-
18 posed change would have on the United States Post-
19 al Service and the customers of the United States
20 Postal Service that are affected by the proposed
21 change.

22 (b) **COMMENTS ON DEFINITIONS.**—In issuing the
23 rules under subsection (a), the United States Postal Serv-
24 ice shall—

1 (1) specifically solicit comments on the appro-
 2 priate definitions of the terms “mailing specifica-
 3 tions” and “significant burden”; and

4 (2) specifically respond to each comment re-
 5 ceived under paragraph (1) before issuing final
 6 rules.

7 **TITLE II—POSTAL** 8 **CONTRACTING PROVISIONS**

9 **SEC. 201. CONTRACTING PROVISIONS.**

10 (a) IN GENERAL.—Part I of title 39, United States
 11 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.

12 **“§ 701. Definitions**

13 “In this chapter—

14 “(1) the term ‘contracting officer’ means an
 15 employee of a covered postal entity who has author-
 16 ity to enter into a postal contract;

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

18 “(A) the United States Postal Service; or

19 “(B) the Postal Regulatory Commission;

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

21 means—

1 “(A) in the case of the United States Post-
2 al Service, the Postmaster General; or

3 “(B) in the case of the Postal Regulatory
4 Commission, the Chairman of the Postal Regu-
5 latory Commission;

6 “(4) the term ‘postal contract’ means any con-
7 tract (including any agreement or memorandum of
8 understanding) entered into by a covered postal enti-
9 ty for the procurement of goods or services; and

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

13 **“§ 702. Advocate for competition**

14 “(a) ESTABLISHMENT AND DESIGNATION.—

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

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

22 “(b) RESPONSIBILITIES.—The advocate for competi-
23 tion of each covered postal entity shall—

24 “(1) be responsible for promoting competition
25 to the maximum extent practicable consistent with

1 obtaining best value by promoting the acquisition of
2 commercial items and challenging barriers to com-
3 petition;

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

6 “(3) prepare and transmit to the head of each
7 covered postal entity, the senior procurement execu-
8 tive of each covered postal entity, the Board of Gov-
9 ernors of the United States Postal Service, and Con-
10 gress, an annual report describing—

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

13 “(B) initiatives required to promote com-
14 petition;

15 “(C) barriers to competition that remain;
16 and

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

19 **“§ 703. Delegation of contracting authority**

20 “(a) IN GENERAL.—

21 “(1) POLICY.—Not later than 60 days after the
22 date of enactment of the U.S. Postal Service Im-
23 provements Act of 2011, the head of each covered
24 postal entity shall issue a policy on contracting offi-

1 cer delegations of authority for the covered postal
2 entity.

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

5 “(A) notwithstanding any delegation of au-
6 thority with respect to postal contracts, the ulti-
7 mate responsibility and accountability for the
8 award and administration of postal contracts
9 resides with the senior procurement executive;
10 and

11 “(B) a contracting officer shall maintain
12 an awareness of and engagement in the activi-
13 ties being performed on postal contracts of
14 which that officer has cognizance, notwith-
15 standing any delegation of authority that may
16 have been executed.

17 “(b) POSTING OF DELEGATIONS.—

18 “(1) IN GENERAL.—The head of each covered
19 postal entity shall make any delegation of authority
20 for postal contracts outside the functional con-
21 tracting unit readily available and accessible on the
22 Web site of the covered postal entity.

23 “(2) EFFECTIVE DATE.—This paragraph shall
24 apply to any delegation of authority made on or

1 after 30 days after the date of enactment of the
2 U.S. Postal Service Improvements Act of 2011.

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

5 “(a) POSTING REQUIRED.—

6 “(1) POSTAL REGULATORY COMMISSION.—The
7 Postal Regulatory Commission shall make the non-
8 competitive purchase request for any noncompetitive
9 award, including the rationale supporting the non-
10 competitive award, publicly available on the Web site
11 of the Postal Regulatory Commission—

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

14 “(B) not later than 30 days after the date
15 of the award of the noncompetitive contract, if
16 the basis for the award was a compelling busi-
17 ness interest.

18 “(2) UNITED STATES POSTAL SERVICE.—The
19 United States Postal Service shall make the non-
20 competitive purchase request for any noncompetitive
21 award of a postal contract valued at \$250,000 or
22 more, including the rationale supporting the non-
23 competitive award, publicly available on the Web site
24 of the United States Postal Service—

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

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

6 “(3) ADJUSTMENTS TO THE POSTING THRESH-
7 OLD FOR THE UNITED STATES POSTAL SERVICE.—

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

11 “(i) review the \$250,000 threshold es-
12 tablished under paragraph (2); and

13 “(ii) based on any change in the Con-
14 sumer Price Index for all-urban consumers
15 of the Department of Labor, determine
16 whether an adjustment to the threshold
17 shall be made.

18 “(B) AMOUNT OF ADJUSTMENTS.—An ad-
19 justment under subparagraph (A) shall be made
20 in increments of \$5,000. If the United States
21 Postal Service determines that a change in the
22 Consumer Price Index for a year would require
23 an adjustment in an amount that is less than
24 \$5,000, the United States Postal Service may

1 not make an adjustment to the threshold for
2 the year.

3 “(4) EFFECTIVE DATE.—This subsection shall
4 apply to any noncompetitive contract awarded on or
5 after the date that is 90 days after the date of en-
6 actment of the U.S. Postal Service Improvements
7 Act of 2011.

8 “(b) PUBLIC AVAILABILITY.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 the information required to be made publicly avail-
11 able by a covered postal entity under subsection (a)
12 shall be readily accessible on the Web site of the cov-
13 ered postal entity.

14 “(2) PROTECTION OF PROPRIETARY INFORMA-
15 TION.—A covered postal entity shall—

16 “(A) carefully screen any description of the
17 rationale supporting a noncompetitive award re-
18 quired to be made publicly available under sub-
19 section (a) to determine whether the description
20 includes proprietary data (including any ref-
21 erence or citation to the proprietary data) or se-
22 curity-related information; and

23 “(B) remove any proprietary data or secu-
24 rity-related information before making publicly

1 available a description of the rational sup-
2 porting a noncompetitive award.

3 “(c) WAIVERS.—

4 “(1) WAIVER PERMITTED.—If a covered postal
5 entity determines that making a noncompetitive pur-
6 chase request publicly available would risk placing
7 the United States Postal Service at a competitive
8 disadvantage relative to a private sector competitor,
9 the senior procurement executive, in consultation
10 with the advocate for competition of the covered
11 postal entity, may waive the requirements under
12 subsection (a).

13 “(2) FORM AND CONTENT OF WAIVER.—

14 “(A) FORM.—A waiver under paragraph
15 (1) shall be in the form of a written determina-
16 tion placed in the file of the contract to which
17 the noncompetitive purchase agreement relates.

18 “(B) CONTENT.—A waiver under para-
19 graph (1) shall include—

20 “(i) a description of the risk associ-
21 ated with making the noncompetitive pur-
22 chase request publicly available; and

23 “(ii) a statement that redaction of
24 sensitive information in the noncompetitive
25 purchase request would not be sufficient to

1 protect the United States Postal Service
 2 from being placed at a competitive dis-
 3 advantage relative to a private sector com-
 4 petitor.

5 “(3) DELEGATION OF WAIVER AUTHORITY.—A
 6 covered postal entity may not delegate the authority
 7 to approve a waiver under paragraph (1) to any em-
 8 ployee having less authority than the senior procure-
 9 ment executive.

10 **“§ 705. Review of ethical issues**

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

16 “(1) review the proposed contract; and

17 “(2) advise the contracting officer on the appro-
 18 priate resolution of ethical issues.

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

21 “(a) DEFINITIONS.—In this section—

22 “(1) the term ‘covered employee’ means—

23 “(A) a contracting officer; or

24 “(B) any employee of a covered postal en-
 25 tity whose decisionmaking affects a postal con-

1 tract as determined by regulations prescribed
2 by the head of a covered postal entity;

3 “(2) the term ‘final conviction’ means a conviction,
4 whether entered on a verdict or plea, including
5 a plea of nolo contendere, for which a sentence has
6 been imposed; and

7 “(3) the term ‘covered relationship’ means a
8 covered relationship described in section
9 2635.502(b)(1) of title 5, Code of Federal Regulations,
10 or any successor thereto.

11 “(b) IN GENERAL.—

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

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

18 “(i) discloses any covered relationship
19 of the covered employee; and

20 “(ii) the covered employee will not
21 take any action with respect to the non-
22 competitive purchase request that affects
23 the financial interests of a friend, relative,
24 or person with whom the covered employee
25 is affiliated in a nongovernmental capacity,

1 or otherwise gives rise to an appearance of
2 the use of public office for private gain, as
3 described in section 2635.702 of title 5,
4 Code of Federal Regulations, or any suc-
5 cessor thereto;

6 “(B) require a contracting officer to con-
7 sult with the ethics counsel for the covered
8 postal entity regarding any disclosure made by
9 a covered employee under subparagraph (A)(i),
10 to determine whether participation by the cov-
11 ered employee in the noncompetitive purchase
12 request would give rise to a violation of part
13 2635 of title 5, Code of Federal Regulations
14 (commonly referred to as the ‘Standards of
15 Ethical Conduct for Employees of the Executive
16 Branch’);

17 “(C) require the ethics counsel for a cov-
18 ered postal entity to review any disclosure made
19 by a contracting officer under subparagraph
20 (A)(i) to determine whether participation by the
21 contracting officer in the noncompetitive pur-
22 chase request would give rise to a violation of
23 part 2635 of title 5, Code of Federal Regula-
24 tions (commonly referred to as the ‘Standards

1 of Ethical Conduct for Employees of the Execu-
2 tive Branch'), or any successor thereto;

3 “(D) under subsections (d) and (e) of sec-
4 tion 2635.50 of title 5, Code of Federal Regula-
5 tions, or any successor thereto, require the eth-
6 ics counsel for a covered postal entity to—

7 “(i) authorize a covered employee that
8 makes a disclosure under subparagraph
9 (A)(i) to participate in the noncompetitive
10 postal contract; or

11 “(ii) disqualify a covered employee
12 that makes a disclosure under subpara-
13 graph (A)(i) from participating in the non-
14 competitive postal contract;

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

19 “(F) include authority for the head of the
20 covered postal entity to a grant a waiver or oth-
21 erwise mitigate any organizational or personal
22 conflict of interest, if the head of the covered
23 postal entity determines that the waiver or miti-
24 gation is in the best interests of the Postal
25 Service.

1 “(2) POSTING OF WAIVERS.—Not later than 30
2 days after the head of a covered postal entity grants
3 a waiver described in paragraph (1)(F), the head of
4 the covered postal entity shall make the waiver pub-
5 licly available on the Web site of the covered postal
6 entity.

7 “(c) CONTRACT VOIDANCE AND RECOVERY.—

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

13 “(A) void that contract; and

14 “(B) recover the amounts expended and
15 property transferred by the covered postal enti-
16 ty under that contract.

17 “(2) OBTAINING OR DISCLOSING PROCUREMENT
18 INFORMATION.—

19 “(A) IN GENERAL.—In any case where a
20 contractor under a postal contract fails to time-
21 ly disclose a conflict of interest to the appro-
22 priate contracting officer as required under the
23 regulations promulgated under subsection
24 (b)(1)(D), the head of a covered postal entity
25 may—

1 “(i) void that contract; and

2 “(ii) recover the amounts expended
3 and property transferred by the covered
4 postal entity under that contract.

5 “(B) CONVICTION OR ADMINISTRATIVE DE-
6 TERMINATION.—A case described under sub-
7 paragraph (A) is any case in which—

8 “(i) there is a final conviction for an
9 offense punishable under section 27(e) of
10 the Office of Federal Procurement Policy
11 Act (41 U.S.C. 423(e)); or

12 “(ii) the head of a covered postal enti-
13 ty determines, based upon a preponderance
14 of the evidence, that the contractor or
15 someone acting for the contractor has en-
16 gaged in conduct constituting an offense
17 punishable under section 27(e) of that
18 Act.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—
20 The table of chapters for part I of title 39, United States
21 Code, is amended by adding at the end the following:

“7. Contracting Provisions 701”.

1 **TITLE III—FEDERAL WORKERS**
 2 **COMPENSATION REFORMS**
 3 **FOR RETIREMENT ELIGIBLE**
 4 **EMPLOYEES**

5 **SEC. 301. FEDERAL WORKERS COMPENSATION REFORMS**
 6 **FOR RETIREMENT ELIGIBLE EMPLOYEES.**

7 (a) TRANSITION TO RETIREMENT.—

8 (1) IN GENERAL.—Chapter 81 of title 5, United
 9 States Code, is amended by inserting after section
 10 8106 the following:

11 **“§ 8106a. Transition to retirement**

12 “(a) DEFINITIONS.—In this section—

13 “(1) the term ‘covered employee’ means an em-
 14 ployee who—

15 “(A) is paid compensation under section
 16 8105 or 8106; and

17 “(B) on or after attaining retirement age
 18 is eligible for an annuity under chapter 83 or
 19 84 (other than a survivor annuity); and

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

23 “(b) Notwithstanding any other provision of this
 24 chapter, the payment of compensation under section 8105

1 or 8106 to a covered employee shall terminate on the date
2 that the covered employee—

3 “(1) attains retirement age and is eligible for
4 an annuity under chapter 83 or 84 (other than a
5 survivor annuity); or

6 “(2) after attaining retirement age becomes eli-
7 gible for an annuity under chapter 83 or 84 (other
8 than a survivor annuity).

9 “(c) Not later than 1 year before the date that a cov-
10 ered employee attains retirement age or subsequently be-
11 comes eligible for an annuity under chapter 83 or 84
12 (other than a survivor annuity), the Secretary of Labor
13 shall provide notice of this section to—

14 “(1) the covered employee;

15 “(2) the employing agency of that covered em-
16 ployee; and

17 “(3) the Office of Personnel Management.

18 “(d) The employing agency of a covered employee
19 shall file an application for an annuity with the Office of
20 Personnel Management in accordance with section 8352
21 or 8471.”.

22 (2) TECHNICAL AND CONFORMING AMEND-
23 MENT.—The table of sections for chapter 81 of title
24 5, United States Code, is amended by inserting after
25 the item relating to section 8106 the following:

“Sec. 8106a. Transition to retirement.”.

1 (b) FILING OF APPLICATIONS.—

2 (1) CIVIL SERVICE RETIREMENT SYSTEM.—

3 (A) IN GENERAL.—Chapter 83 of title 5,
4 United States Code, is amended by inserting
5 after section 8351 the following:

6 **“§ 8352. Employees transitioning from workers com-
7 pensionation**

8 “(a) DEFINITION.—In this section, the term ‘covered
9 employee’ means an employee who is a covered employee
10 as defined under section 8106a(a)(1) and is eligible for
11 an annuity under this chapter.

12 “(b) APPLICATIONS.—Not later than 1 year before
13 the date of the termination of payments of compensation
14 under section 8106a(b) to a covered employee who is eligi-
15 ble for an annuity under this chapter, the employing agen-
16 cy of that covered employee shall file an application for
17 an annuity for that covered employee under this chapter
18 with the Office of Personnel Management.

19 “(c) REGULATIONS.—The Office of Personnel Man-
20 agement shall prescribe regulations to carry out this sec-
21 tion.”.

22 (B) TECHNICAL AND CONFORMING AMEND-
23 MENT.—The table of sections for chapter 83 of
24 title 5, United States Code, is amended by in-

1 serting after the item relating to section 8351
2 the following:

“Sec. 8352. Employees transitioning from workers compensation.”.

3 (2) FEDERAL EMPLOYEES RETIREMENT SYS-
4 TEM.—

5 (A) IN GENERAL.—Chapter 84 of title 5,
6 United States Code, is amended by inserting
7 after section 8470 the following:

8 **“§ 8471. Employees transitioning from workers com-
9 pensation**

10 “(a) DEFINITION.—In this section, the term ‘covered
11 employee’ means an employee who is a covered employee
12 as defined under section 8106a(a)(1) and is eligible for
13 an annuity under this chapter.

14 “(b) APPLICATIONS.—Not later than 1 year before
15 the date of the termination of payments of compensation
16 under section 8106a(b) to a covered employee who is eligi-
17 ble for an annuity under this chapter, the employing agen-
18 cy of that covered employee shall file an application for
19 an annuity for that covered employee under this chapter
20 with the Office of Personnel Management.

21 “(c) REGULATIONS.—The Office of Personnel Man-
22 agement shall prescribe regulations to carry out this sec-
23 tion.”.

24 (B) TECHNICAL AND CONFORMING AMEND-
25 MENT.—The table of sections for chapter 84 of

1 title 5, United States Code, is amended by in-
2 serting after the item relating to section 8456
3 the following:

“Sec. 8471. Employees transitioning from workers compensation.”.

4 **SEC. 302. REGULATIONS.**

5 Not later than 180 days after the date of enactment
6 of this Act, the Secretary of Labor, after consultation with
7 the Director of the Office of Personnel Management, shall
8 prescribe regulations to carry out this title.

9 **SEC. 303. EFFECTIVE DATE.**

10 (a) **IN GENERAL.**—Except as provided under sub-
11 section (b), this title (including the amendments made by
12 this tile) shall take effect on the date of enactment of this
13 Act.

14 (b) **TERMINATION OF COMPENSATION.**—Section
15 8106a(b) of title 5, United States Code, (as added by sec-
16 tion 301 of this Act) shall take effect 1 year after the
17 date regulations are prescribed under section 302.

○